

1 STATE OF WISCONSIN
 2 DEPARTMENT OF WORKFORCE DEVELOPMENT
 3 EQUAL RIGHTS DIVISION

4 PAM PALKILL,
 5 Complainant,
 6 vs.
 7 CURT MANUFACTURING, INC.,
 8 Respondent.

DEPOSITION
 EEO Case No.
 CR201202146

COPY

9 The deposition of TIMOTHY HAU, taken under and
 10 pursuant to the provisions of chapter 804 of the
 11 Wisconsin Statutes and the acts amendatory thereof
 12 and supplementary thereto, before Stephanie J. Peil,
 13 Notary Public in and for the State of Wisconsin,
 14 Bakke Norman, S.C., 2919 Schneider Avenue,
 15 Menomonie, Wisconsin, on the 15th day of November,
 16 2013, commencing at approximately 9:00 a.m.

23 ORIGINAL TRANSCRIPT FILED AT THE
 24 OFFICES OF ATTORNEY PETER M. REINHARDT

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1 PROCEEDINGS

2 TIMOTHY HAU,

3 being first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. REINHARDT:

6 Q. Please state your name for the record.

7 A. Timothy John Hau.

8 Q. Mr. Hau, what is your home address?

9 A. 57930 Jamie Lane, Eau Claire, Wisconsin.

10 Q. Let me briefly go over the deposition rules for
 11 what's going to go on today. I have four, I
 12 think. First is I'm going to be asking you
 13 questions. It's important to me that you
 14 understand the questions. So for some reason
 15 if you don't understand a question, please let
 16 me know, and I will —

17 A. I'm going to switch chairs. I'm sorry. I'm
 18 listening.

19 Q. Let me restart. I think we were talking about
 20 that I'm going to be asking you questions, and
 21 it's important to me that you understand the
 22 question. If you don't understand the
 23 question, let me know, and I will restate or
 24 rephrase the question. Do you understand that?

25 A. I do.

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1 APPEARANCES:

2 Peter M. Reinhardt, Esq., of Bakke Norman,
 3 S.C., 2919 Schneider Avenue, Menomonie, Wisconsin,
 4 54751, appeared representing the Complainant.
 5 Mark Johnson, Esq., of Krukowski & Costello,
 6 S.C., 1243 N. 10th Street, Suite 250, Milwaukee,
 7 Wisconsin, 53205, appeared representing the
 8 Respondent.
 9 Also present: Kim Myers.

11 EXAMINATION INDEX

12 TIMOTHY HAU:

13 By Mr. Reinhardt:
 14 By Mr. Johnson

3
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24 ORIGINAL EXHIBITS WITH ORIGINAL TRANSCRIPT
 COPIES SUPPLIED TO THE ATTORNEYS
 25

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1 Q. If for some reason — strike that. If you go
 2 ahead and answer the question, I'm going to
 3 assume that you understood the question. Do
 4 you understand that?

5 A. I do.

6 Q. Second, as you can see, the court reporter is
 7 taking down everything I say and everything you
 8 say. She can't take us — she can't take us
 9 both talking at the same time down, so I'd ask
 10 that you let me finish my question before you
 11 go onto your answer. Do you understand that?

12 A. I do.

13 Q. Third, the court reporter —

14 A. You'll tell me when you're finished?

15 Q. Well, I'm not going to — the answer is no, I'm
 16 not going to tell you when I'm finished. Just
 17 take a pause and make sure I'm finished. If
 18 I'm not finished, I will let you know.

19 A. Okay.

20 Q. Third, the court reporter can't take down a nod
 21 of the head or a gesture of the hand, so I ask
 22 that you articulate an answer and avoid huh-uh
 23 or um-hum because they look the same on the
 24 record. All right?

25 A. Agreed.

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1 Q. Fourth, I anticipate your deposition will take
 2 approximately three hours today. We'll take a
 3 break sometime after an hour or so. But if in
 4 the interim you need to take a break to use the
 5 restroom, get up and stretch, for whatever
 6 reason, let me know, and I will accommodate
 7 your request provided that your request does
 8 not fall in the middle of a line of
 9 questioning.

10 So with that said, have you reviewed
 11 anything in order to prepare for your
 12 deposition today?

13 A. Some of the material that has been provided to
 14 me as far as the court orders, yes.

15 Q. What specific material do you recall reviewing?

16 A. I opened the document that said I should be
 17 here at mine, and I got the address off of it.

18 Q. Anything else?

19 A. I've looked at some of the notes that have been
 20 produced, my document that I created.

21 Q. Anything else?

22 A. I think that's about it.

23 Q. Did you look at the position statement that was
 24 prepared by CURT Manufacturing and provided to
 25 the EEOC and the Equal Rights Division for the

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1 A. Dedicated Computing, LLC.
 2 Q. When you started at CURT Manufacturing in July
 3 of 2010, what was your title at that point?
 4 A. Director of information technology.
 5 Q. And so is it fair to say that it would have
 6 been July of 2012 that you became the chief
 7 information officer?
 8 A. I don't know the dates. I'd have to go to the
 9 HR department to find out the date.
 10 Q. It was approximately two years ago that you
 11 became the —
 12 A. That's my current guess, yes.
 13 Q. And what were your duties and responsibilities
 14 generally as director of information technology
 15 for CURT Manufacturing?
 16 A. I was responsible for all the systems, the
 17 business systems, and the development of the IT
 18 department.
 19 Q. When you say you were responsible for all the
 20 business systems, what does that mean?
 21 A. You could put that in the category of ERP
 22 systems of any cross-functional tools,
 23 electronic tools, software, that the business
 24 uses.
 25 Q. Who did you report to when you were the

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1 State of Wisconsin?

2 A. I don't know what that document is.

3 Q. Did you look at CURT Manufacturing's discovery
 4 responses?

5 A. Did I look at CURT Manufacturing's discovery?
 6 If I can see the document, I could tell you.
 7 I'm not sure by name of document. I don't know
 8 what you're referencing. So if I could see it,
 9 I could answer that.

10 Q. Fair enough. We'll get to that. Are you
 11 currently employed, sir?

12 A. Yes.

13 Q. By whom are you employed?

14 A. CURT Manufacturing, LLC.

15 Q. And what is your title today?

16 A. Chief information officer.

17 Q. For how long have you held that title?

18 A. Two years. I'm not sure.

19 Q. For how long have you been employed by CURT
 20 Manufacturing?

21 A. Three-and-a-half years.

22 Q. What was your start date?

23 A. It was in July of 2010.

24 Q. By whom were you employed prior to July of
 25 2010?

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1 A. Director of information technology?
 2 A. Bob Roerner. Robert I guess is his official
 3 name.
 4 Q. What was his position?
 5 A. Chief financial officer.
 6 Q. And who reported to you when you were the
 7 director of information technology?
 8 A. Everyone in the IT department did.
 9 Q. They were your direct reports?
 10 A. Yes.
 11 Q. Where is CURT Manufacturing located?
 12 A. 6208 Industrial Drive, Eau Claire, Wisconsin.
 13 Q. Is that its only location?
 14 A. No. There's 11 locations — 10 now.
 15 Q. Where is —
 16 A. It just closed.
 17 Q. And you indicated CURT Manufacturing is an LLC
 18 at this time?
 19 A. Yes.
 20 Q. Was it an LLC back in 2011/2012?
 21 A. Yes.
 22 Q. Where is its principal place of business?
 23 A. 6208 Industrial Drive, Eau Claire, Wisconsin.
 24 Q. You said there are 10 or 11 other locations?
 25 A. Yes.

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- 1 Q. Do you know where those are? Are they in
2 Wisconsin?
3 A. None of the others are in Wisconsin, no.
4 Q. What is CURT Manufacturing in the business of
5 doing?
6 A. We're a custom hitch manufacturing company, and
7 we supply hitches to the — hitches and hitch
8 accessories to the towing industry.
9 Q. And you said those are manufactured by CURT?
10 A. The hitches are manufactured by CURT. We have
11 other product that is not.
12 Q. Back in 2011 do you know how many employees
13 CURT Manufacturing had?
14 A. No, I don't know the number.
15 Q. Is it more than 100?
16 A. Yes.
17 Q. More than 200?
18 A. Likely, yes.
19 Q. More than 300?
20 A. I don't know. You're getting in the range now
21 where I'm not sure.
22 Q. Who would know that?
23 A. The HR department.
24 Q. In 2011 did you know that it was contrary to
25 state and federal law to discriminate against

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- 1 somebody who has a disability?
2 A. Did I know specifically? To the way you worded
3 that question, no, I didn't know that. I knew
4 in general you don't do things like that. But
5 your specific question, no, I didn't know that.
6 Q. In 2011 did you know what the Wisconsin Fair
7 Employment Act was?
8 A. I was aware that existed. I did not know what
9 it was.
10 Q. How were you aware that it existed?
11 A. Through my career.
12 Q. 2011, did you know what the Americans with
13 Disabilities Act was?
14 A. I knew it existed. I did not know the details
15 of that.
16 Q. Did you know generally that the law stated you
17 cannot discriminate against somebody in the
18 terms and conditions of employment because of a
19 disability?
20 A. That was — that would have been my assumption,
21 yes.
22 Q. You can't discriminate against somebody in
23 hiring them because they have a disability?
24 A. That would have been my assumption, yes.
25 Q. When you say "your assumption," what do you

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- 1 mean by that?
2 A. I've never read the act.
3 Q. Have you had any training as of 2011 or 2012
4 with respect to the Wisconsin Fair Employment
5 Act or the Americans with Disabilities Act?
6 A. No, I have not.
7 Q. You're a college graduate?
8 A. Yes, I am.
9 Q. Where did you graduate from?
10 A. University of Wisconsin-Madison.
11 Q. What year?
12 A. I think it was '85, 1985.
13 Q. What was your degree in?
14 A. Computer science, and then I have an MBA from
15 Edgewood College.
16 Q. In Madison?
17 A. Yes.
18 Q. What's your MBA in?
19 A. Finance.
20 Q. And prior to coming to CURT Manufacturing, was
21 it Dedicated Computing? Is that what you said?
22 A. Yes.
23 Q. What was your position there?
24 A. Director of information technology.
25 Q. How long were you there for?

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- 1 A. Four years.
2 Q. And before that?
3 A. Before that, Escape Key Technologies.
4 Q. What did you do there?
5 A. I was the founder of Escape Key Technologies.
6 I provided interim CIO services to small and
7 medium size companies.
8 Q. In 2011 did CURT Manufacturing have some need
9 for programmer/analysts at its Eau Claire
10 location?
11 A. We sure did.
12 Q. And why was it that CURT Manufacturing had a
13 need at that time?
14 A. The business requirements required us to make
15 changes to our environment.
16 Q. Could you be more specific, please. What about
17 the business environment required you to make
18 changes?
19 A. The growth of our company was requiring us to
20 become more scalable as far as our systems were
21 concerned. There were too many people with
22 problems doing day-to-day tasks. Our systems
23 were unstable, they weren't predictable, and
24 they caused a lot of problems for anyone that
25 worked with them.

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- 1 Q. And was it your responsibility to find more
 2 people to work as programmer/analysts in 2011?
 3 A. It was my responsibility to fix all the
 4 problems that existed. It wasn't necessarily
 5 dictated to me, hire people.
 6 Q. As part of your responsibility to fix the
 7 problems, did you determine that more
 8 programmer/analysts were needed?
 9 A. Yes, I did.
 10 Q. What, if anything, did you do to get more
 11 programmer/analysts?
 12 A. We posted positions on the Internet, we talked
 13 to recruiters, we posted positions on our
 14 website, we posted positions internally, we
 15 posted positions pretty much everywhere you can
 16 post positions.
 17 Q. When you say "we," who are you referring to?
 18 A. CURT Manufacturing.
 19 Q. I understand that. But what specific
 20 individuals at CURT Manufacturing actually
 21 participated in these postings?
 22 A. The HR department.
 23 Q. Did you have any role at all in coming up with
 24 the information that was posted at these
 25 various locations in terms of what was needed?

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- 1 A. Sure.
 2 (Exhibit No. 1 was marked for
 3 identification.)
 4 BY MR. REINHARDT:
 5 Q. Showing you what's been marked for
 6 identification as Hau Deposition Exhibit No. 1.
 7 Please take a moment and look at the document,
 8 and let me know when you've reviewed it
 9 sufficiently to be able to answer some
 10 questions.
 11 A. Okay. I'm ready.
 12 Q. First of all, do you know what Hau Deposition
 13 Exhibit No. 1 is?
 14 A. Do I know how it is?
 15 Q. Do you know what it is.
 16 A. Based on the handwriting, it appears to be a
 17 posting from CareerBuilder, Wisconsin Job
 18 Board. That would be my assumption.
 19 Q. Is this a posting that occurred in 2011?
 20 A. I don't know.
 21 Q. Would you look at the bottom of the page, four
 22 lines up. There is a bullet point I will call
 23 it, for lack of a better description, which
 24 states, Minimum of three years experience with
 25 AS/400, RPG, and CL. Do you see that?

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- 1 A. I do.
 2 Q. Is that what you as the — I want to make sure
 3 I get your title right — director of
 4 information technology were looking for in 2011
 5 in terms of minimum experience for a
 6 programmer/analyst position?
 7 A. That was one of them, yes.
 8 Q. What is AS/400?
 9 A. That's commonly referred to as the hardware
 10 platform that our business system runs on.
 11 Q. When you say "your business system," what are
 12 you referring to?
 13 A. Today it's called XA. In the past it's been
 14 referred to as MAPICS, PowerLink, Browser, all
 15 kinds of different names.
 16 Q. What is RPG?
 17 A. Report — I'm guessing here. Report Program
 18 Generator I think is what it stands for.
 19 Q. It's a programming language?
 20 A. Is that a question?
 21 Q. Yes.
 22 A. Yes, it's a programming language.
 23 Q. In other words, it's a language in which source
 24 code is written?
 25 A. Yes.

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- 1 Q. What is CL?
 2 A. Control Language.
 3 Q. Is that a programming language also?
 4 A. Yes, it is.
 5 (Exhibit No. 2 was marked for
 6 identification.)
 7 BY MR. REINHARDT:
 8 Q. Showing you what's been marked for
 9 identification as Hau Deposition Exhibit 2.
 10 Again, take a moment to look at this document,
 11 and let me know when you're able to answer
 12 questions about it.
 13 A. Okay. I'm ready.
 14 Q. Do you know what this document is?
 15 A. I have no idea.
 16 Q. Fair enough. Did CURT Manufacturing have a
 17 contract with Orni Services in 2011?
 18 A. We had a — did we have a contract? When we
 19 contracted for Pam and we contracted for Kathy,
 20 yes, we did.
 21 Q. Let me ask you this. To your knowledge, when
 22 is the first time that CURT Manufacturing
 23 entered into any contractual relationship with
 24 Orni Resources, Inc.?
 25 A. There's been a number of contractors that have

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1 core through there, so I don't know if Kathy
 2 was the first one, but I'll go with Kathy.
 3 Q. Well, were you involved in arranging with Orni
 4 Resources, Inc., to provide services for CURT
 5 Manufacturing?
 6 A. Yes, I was.
 7 Q. And were they signed up as of the time you
 8 started in July of 2010, or is that something
 9 that you worked on getting together?
 10 A. I don't understand "signed up."
 11 Q. Well, was the contract signed with Orni
 12 Resources, Inc., as of the time that you
 13 started with CURT Manufacturing?
 14 A. I don't — I wasn't aware of one, if there
 15 were, if there was a contract. I'm sure there
 16 wasn't an open contract.
 17 Q. Say that again. I'm sorry.
 18 A. I'm sure there wasn't an open contract.
 19 Contracts go for a term where you say, okay,
 20 here's how many months you want this resource,
 21 and then they end.
 22 Q. Did you sign any contracts on behalf of CURT
 23 Manufacturing with Orni Resources, Inc.?
 24 A. Yes, I did. Many.
 25 (Exhibit No. 3 was marked for

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1 identification.)
 2 BY MR. REINHARDT:
 3 Q. Showing you what's been marked for
 4 identification as Hau Deposition Exhibit No. 3.
 5 Have you seen this document before?
 6 A. I can't say that this is the one I've seen, but
 7 I've seen a Master Consulting Agreement with
 8 Orni Resources that I've signed and they've
 9 countersigned it. I don't see my signature on
 10 this one, so I don't know that this is
 11 specifically the one I've seen.
 12 Q. Have you provided or has anybody on your behalf
 13 provided a Master Consulting Services Agreement
 14 with your signature to your counsel?
 15 A. I believe I did, yeah.

16 MR. REINHARDT: Mark, I have not seen this
 17 document with the signature on it. Do you know
 18 if you provided it?

19 MR. JOHNSON: I've provided everything we
 20 have. I thought I saw one, but I'd have to go
 21 back and look.

22 MR. REINHARDT: I'll check. I'm not
 23 saying you didn't. I went through the
 24 documents. I didn't see it, but I'll go
 25 through again, and then I'll just let you know

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1 if I don't have it and just ask for it. I
 2 assume it's not going to be a big deal.
 3 MR. JOHNSON: No.
 4 BY MR. REINHARDT:
 5 Q. What was your understanding, Mr. Hau, of what
 6 the Master Consulting Agreement was intended to
 7 accomplish?
 8 A. Provided me the right to use a resource that
 9 was employed by Orni Resources as a contractor
 10 to do some work over a specified period of
 11 time. In addition to that — I'm trying to
 12 find it on here because I know the one that I
 13 signed there's some of this verbiage crossed
 14 off and changed — that it allowed me to hire
 15 that person after a period of time.
 16 Q. Was that important to you?
 17 A. It was one of the options I was pursuing, yes.
 18 Q. And why did you want to pursue that option?
 19 A. Because I had open positions for
 20 programmer/analysts.
 21 Q. Did you feel at the time you signed the
 22 contract with Orni Resources that there would
 23 be some benefit to having programmer/analysts
 24 as employees versus having them provide it on a
 25 contract basis through Orni Resources?

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1 A. My goal was to hire people.
 2 Q. Why was that?
 3 A. Because contractors are much more expensive
 4 than hiring.
 5 Q. Even when you take into account fringe
 6 benefits?
 7 A. Even when I take into account — my experience
 8 is contractors are more expensive for a long
 9 term, as in years. When I look to hire
 10 someone, I'm looking for a three-year minimum
 11 as far as the duration of them. And when I go
 12 at an hourly rate for a contractor, then it
 13 becomes very high-priced.
 14 Q. Cost prohibitive?
 15 A. Yes.
 16 Q. With respect to the various contract employees
 17 that were provided to CURT Manufacturing
 18 through Orni Resources, was there a separate
 19 agreement signed by and between CURT and Orni
 20 for each of those employees?
 21 A. I missed the first part of what you said. Can
 22 you repeat it?
 23 Q. With respect to each employee that was provided
 24 to CURT Manufacturing on a contract basis
 25 through Orni Resources —

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- 1 A. With each Orni employee?
 2 Q. Yes.
 3 A. Yes, a different contract was signed for each
 4 Orni employee.
 5 Q. Between CURT and Orni?
 6 A. Yes.
 7 Q. What's your recollection —
 8 A. That's different. I'm sorry.
 9 MR. JOHNSON: Just answer the question.
 10 BY MR. REINHARDT:
 11 Q. The contract that's signed for each employee is
 12 different than the Master Consulting Services;
 13 correct?
 14 A. Yes.
 15 Q. That's what you were going to say?
 16 A. Yes.
 17 Q. What was your understanding in 2011 of what
 18 CURT's right was in terms of hiring employees
 19 that had been provided on a contractor basis
 20 through Orni Resources? Did you understand
 21 that you could do that at any time, or what was
 22 your understanding?
 23 A. The contract that I had set up where I had
 24 crossed off some of the verbiage was that after
 25 six months I could hire them, and there

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- 1 wouldn't be a placement fee associated with
 2 that.
 3 Q. Was it six months, or was it a number of hours?
 4 A. I'd have to look at the contract that I signed,
 5 but I think I hand wrote "six months."
 6 Q. Did you understand why — not why. I've seen a
 7 reference in some documents to 1,000 hours
 8 versus a six-month time period. That's why I
 9 asked the question. But you believe it was six
 10 months, not 1,000 hours?
 11 A. I believe the contract read that way, yes.
 12 Q. Was there some verbal agreement at some point
 13 between you — I'm sorry. Was there some
 14 verbal agreement or modification at some point
 15 between CURT Manufacturing and Orni Resources
 16 where it changed from six months to 1,000
 17 hours?
 18 A. I'm not aware of any verbal agreement.
 19 Q. How about any modification of the written
 20 agreement?
 21 A. I'm not aware of any modification to the
 22 written agreement.
 23 Q. In 2011 and 2012 did CURT Manufacturing have a
 24 specific job title that was named or labeled
 25 "programmer"?

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- 1 A. Trying to think of how to answer that. Did I
 2 have one would be different than did CURT
 3 Manufacturing have one.
 4 Q. Let me ask it this way. We can go at it a
 5 number of ways. As director of information
 6 technology, was it one of your responsibilities
 7 to make sure that there were job descriptions
 8 in place for the various people under your
 9 supervision?
 10 A. Yes.
 11 Q. Were there written job descriptions in 2011 for
 12 the programmer and programmer/analyst position?
 13 A. I'm aware of a programmer/analyst position job
 14 description. I'm not aware of a programmer.
 15 That doesn't mean it didn't exist.
 16 Q. Do you know who would have maintained custody
 17 of the job descriptions?
 18 A. The HR department.
 19 Q. Did you have access to those job descriptions?
 20 A. If I asked for them, I could get them, yes.
 21 Q. Could you get them on your computer, or did you
 22 have to ask somebody for them?
 23 A. I had to ask for them.
 24 Q. And who was in charge of the HR department in
 25 2011?

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- 1 A. Kim Myers.
 2 Q. Who was in charge of the HR department in 2012?
 3 A. Kim Myers.
 4 (Exhibit No. 4 was marked for
 5 identification.)
 6 BY MR. REINHARDT:
 7 Q. Showing you what's been marked for
 8 identification as Hau Deposition Exhibit 4.
 9 Have you ever seen this document before?
 10 A. Yes.
 11 Q. What is this document?
 12 A. This is a job description for the title
 13 Programmer.
 14 Q. And was this the job description that was in
 15 effect for the programmer position at CURT
 16 Manufacturing in 2011 and 2012?
 17 A. This appears to be a job description for a
 18 programmer, but that doesn't mean I had an open
 19 position for a programmer.
 20 Q. That wasn't my question. I understand — I'm
 21 not asking if you had an open position. I'm
 22 asking you if this was the job description in
 23 effect during 2011 and 2012 for people employed
 24 in the programmer position.
 25 A. I did not have anyone employed in the

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- 1 programmer position.
- 2 Q. Aside from the fact that you didn't have anyone
3 employed, if you did have somebody employed,
4 was this the job description that was in
5 effect?
- 6 A. I'll go with that. I mean, I'm not sure. I
7 don't know how to answer because I didn't have
8 a position for programmer. Did this job
9 description exist? It sure looks like it did.
- 10 Q. Did you have any input into this job
11 description?
- 12 A. I believe I created it.
- 13 Q. Do you know when you would have created it?
- 14 A. In — highly likely when I first started with
15 the company.
- 16 Q. Are you telling me that during 2011 the IT
17 department at CURT Manufacturing in Eau Claire
18 did not have a programmer position employed?
- 19 A. To the best of my knowledge, I did not have —
20 the IT department at CURT Manufacturing did not
21 have a programmer employed.
- 22 Q. What about in 2012?
- 23 A. To the best of my knowledge, we did not.
- 24 Q. And in your mind how do you distinguish, if at
25 all, the difference between somebody being

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- 1 employed as a programmer and somebody being
2 employed as a programmer/analyst?
- 3 A. When I come into a company and look at the
4 department and the progression of employees
5 within that department, I create something
6 called a line of progression. And the line of
7 progression for this type of position starts
8 with programmer, then moves to
9 programmer/analyst, then senior
10 programmer/analyst.
- 11 Q. What is it that occurs in the line of
12 progression that allows somebody to go from a
13 programmer to a programmer/analyst?
- 14 A. Typically a programmer would be an entry-level
15 person coming out of college. Sometimes the
16 skill set of those entry-level people will
17 dictate differences.
- 18 (Exhibit No. 5 was marked for
19 identification.)
- 20 BY MR. REINHARDT:
- 21 Q. Showing you what's been marked for
22 identification as Hau Deposition Exhibit No. 5.
23 Tell me what this document is.
- 24 A. It's a job description for programmer/analyst
25 at CURT Manufacturing dated 4/5/12.

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- 1 Q. Is this a job description you prepared?
- 2 A. It appears to be, yes.
- 3 Q. And if you look at the second page, there is an
4 entry called Preferred. Do you see that?
- 5 A. Yes, I do.
- 6 Q. And under that, one of the points is Knowledge
7 of MAPICS XA ERP system. What is that
8 referring to?
- 9 A. The MAPICS XA ERP system.
- 10 Q. Which is what?
- 11 A. It's the MAPICS XA ERP system that we talked
12 about earlier.
- 13 Q. Sure. You have to understand, sir, that I'm
14 not a computer programmer, so I have a very
15 basic level of knowledge about computer
16 programming. So I'm going to ask you to
17 explain because you've thrown around the words
18 "MAPICS," "PowerLink," "RPG." So let me ask
19 you this. Does the — MAPICS XA ERP system, is
20 that what is used to run the warehouse
21 management system?
- 22 A. No, it is not.
- 23 Q. What is it used for?
- 24 A. It's our business system, and it includes
25 inventory, customer orders, engineering,

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- 1 manufacturing, and maybe some others. I don't
2 know.
- 3 Q. And in 2011 and 2012 CURT Manufacturing had a
4 warehouse management system; is that correct?
- 5 A. I would never call it a warehouse management
6 system.
- 7 Q. What would you call it?
- 8 A. We had some homegrown software that allowed us
9 to pick, pack, and then it was — that's it.
10 It allowed us to pick and pack and keep track
11 of the location of our inventory.
- 12 Q. What was that written in?
- 13 A. RPG and the various flavors of RPG and CL and
14 SQL.
- 15 Q. The next entry says Experience with AS/400. Do
16 you see that?
- 17 A. Yes.
- 18 Q. And is AS/400 your business system?
- 19 A. Again, you asked this earlier, the AS/400 is
20 commonly referred to as the piece of hardware
21 that our business system runs on.
- 22 Q. Why didn't you include in this Preferred any
23 reference to PowerLink?
- 24 A. Because I didn't want to stop anyone from
25 applying for this position that didn't have

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- 1 PowerLink. That's a skill that I believe
2 people can be trained in.
3 Q. Is PowerLink a programming language?
4 A. It is a type of programming language, yes.
5 Q. So source code is written in PowerLink?
6 A. Actually, I don't know PowerLink well enough to
7 answer that question. I don't know if there's
8 source code that's visible.
9 Q. How is PowerLink used in your business?
10 A. It's the key programming language for our
11 business systems.
12 Q. Well, if it's the key programming language, why
13 wouldn't you put it anywhere in the job
14 description as of 2012?
15 A. Because 99.9 percent of the resources available
16 to become programmer/analysts don't know it.
17 It's a skill that I believe people can be
18 trained in.
19 Q. Why did you put Experience with RPG down under
20 Preferred?
21 A. Because RPG is another language that's used in
22 our business systems. There's many more
23 resources that have RPG experience than they
24 have PowerLink experience.
25 Q. You're saying that in the world of programmers,

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- 1 many more of them have experience with RPG as
2 opposed to PowerLink?
3 A. Yes.
4 Q. At least to your knowledge?
5 A. Yes.
6 Q. Were you involved in making the decision that
7 Kathleen Fjerstad would be hired as a contract
8 employee through Orni Resources?
9 A. Yes.
10 Q. Was anybody else involved in that decision?
11 A. I don't know the resources at Orni that were
12 involved in that. At CURT I was the only
13 resource.
14 Q. And did you look through a number — first of
15 all, how did her name come to your attention?
16 Was it a résumé Orni provided to you?
17 A. Yes.
18 Q. And did Orni provide you with a number of
19 different résumés in addition to Ms. Fjerstad
20 before she was hired?
21 A. I'm aware of Pam's. I'm not sure I'm aware of
22 others. So I'm not sure if it's more than one,
23 but certainly one other one.
24 Q. When did Ms. Fjerstad begin working at CURT
Manufacturing as a contract employee?

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- 1 A. I don't recall that date. But it was — I
2 believe it was in 2011, early 2011.
3 Q. Was it before Pam Palzkill started?
4 A. Yes.
5 Q. Do you recall approximately how many months
6 before?
7 A. I don't know the exact number of months before.
8 Q. What position was she hired for?
9 A. As a contract programmer?
10 Q. Right.
11 A. Or as an associate at CURT Manufacturing?
12 Q. Good clarification. Let me restate the
13 question for you. When Ms. Fjerstad began
14 working at CURT Manufacturing as a contract
15 employee through Orni Resources, what position
16 was she working in as a contract employee?
17 A. Programmer/analyst.
18 Q. What was she hired to do?
19 A. Write RPG programs and enhance RPG programs.
20 Q. And what type of programs was she hired to
21 write?
22 A. RPG-based programs.
23 Q. I understand that. That's RPG based. But what
24 were the programs going to do?
25 A. Help fix the ball of Band-Aids that our system

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- 1 was where all these patches were on where we
2 had this unstable environment that I referenced
3 earlier.
4 Q. Is that what she primarily did for the first
5 year she was working there?
6 A. For the first year, no.
7 Q. So her role changed at some point?
8 A. Yes, it did.
9 Q. When did it change?
10 A. Sometime during the first year.
11 Q. Why did it change?
12 A. Because she brought to my attention the need to
13 learn other skills, in particular PowerLink.
14 She told me she couldn't do her job unless she
15 knew how to do PowerLink.
16 Q. And you specifically recall her saying that?
17 A. Yes, multiple times.
18 Q. Did she explain why she had said that?
19 A. Because as she was looking at the programs, she
20 learned that she needed to do things in
21 PowerLink. And she knew the objective was to
22 solve that particular problem, and she couldn't
23 solve that problem without learning that skill.
24 Q. Was that news to you?
25 A. It was.

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- 1 Q. You were surprised by that?
 2 A. I was.
 3 Q. Why is it you hadn't identified that?
 4 A. I have earlier experience with MAPICS as a
 5 business system and programming in MAPICS. My
 6 first job out of college was in an environment
 7 where we were running MAPICS 20 years ago, and
 8 it was all RPG based. So when I came to CURT
 9 Manufacturing, my assumption was it was still
 10 all RPG based, and so I was looking for RPG
 11 resources. My predecessors that were there
 12 were only programming in RPG; they weren't
 13 doing anything else. So there was no exposure
 14 to this other tool.
 15 Q. At the time Ms. Fjerstad told you — allegedly
 16 told you that she felt she couldn't do her job
 17 unless she was using PowerLink, did you know
 18 PowerLink yourself?
 19 A. No, I did not.
 20 Q. Had you had any exposure to PowerLink?
 21 A. No, I had not. Did I — did I know there was
 22 PowerLink being used? Yes.
 23 Q. Going back to your reference to MAPICS. Is
 24 MAPICS considered a programming language?
 25 A. MAPICS is an ERP system.

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- 1 Q. What does that mean?
 2 A. ERP stands for enterprise resource planning.
 3 Q. Because I thought in your testimony several
 4 moments ago you had talked about MAPICS or
 5 mentioned MAPICS as a programming language, so
 6 I must have got that wrong.
 7 A. I don't believe I ever said that.
 8 Q. And you would agree it's not a programming
 9 language; it's an ERP system?
 10 A. Correct.
 11 Q. When was — well, let me ask it this way. At
 12 some point did CURT Manufacturing offer Ms.
 13 Fjerstad a job as an employee of CURT
 14 Manufacturing rather than working through amri
 15 on a contract basis?
 16 A. Yes.
 17 Q. When did that occur?
 18 A. I don't recall the date.
 19 Q. Who made the decision that she was going to be
 20 offered a job as an employee?
 21 A. I made the decision that I wanted her as an
 22 employee. As far as who made the decision that
 23 allowed me to hire her, that was probably a
 24 combination of myself and HR. And I don't know
 25 if it was Bob or Greg, one of the two.

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- 1 Q. You had to get approval from somebody?
 2 A. To hire?
 3 Q. Yes.
 4 A. Absolutely.
 5 Q. Why did you want to hire her as an employee
 6 rather than continuing on a contract basis?
 7 A. The business had requirements that suggested to
 8 me that I needed to add resources to my
 9 department or continued resources for well over
 10 three years.
 11 Q. So did you sit down before making the formal
 12 offer and talk to Ms. Fjerstad about whether or
 13 not she'd be interested in working as an
 14 employee rather than on a contract basis?
 15 A. I did.
 16 Q. Tell me about that discussion.
 17 A. I can tell you what I assume we talked about,
 18 but I can't tell you the exact discussion.
 19 Q. Can you tell me anything generally in terms of
 20 what the substance of your discussion was?
 21 A. Yeah. That would be that we have a business
 22 need to continue to develop in MAPICS, which
 23 means PowerLink and RPG. And I know I thanked
 24 her many times for helping me understand the
 25 business need to use PowerLink because I took

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- 1 the position with her specifically multiple
 2 times that I wanted her to just do RPG, and she
 3 continued to tell me multiple times she
 4 wouldn't be able to do her job if that was the
 5 case.
 6 Q. Was a written job offer extended to her, if you
 7 know?
 8 A. I believe it was, yes. And I believe there's a
 9 piece of paper somewhere.
 10 Q. Did she fill out a job application?
 11 A. I believe that's our requirement, yes.
 12 Q. Did she fill the job application out after you
 13 told her that you wanted to hire her as an
 14 employee of CURT rather than on a contract
 15 basis through amri?
 16 A. That's highly likely. I don't recall, but
 17 that's highly likely.
 18 Q. When you say "that's highly likely," why do you
 19 say that?
 20 A. Just thinking of the chain of events it makes
 21 sense to me that that's the approach I would
 22 have taken.
 23 Q. In other words, see if she's interested, tell
 24 her that you're interested; and if she is, then
 25 have her fill out the application?

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- 1 A. Yeah.
 2 Q. Is Ms. Fjerstad still working for CURT
 3 Manufacturing?
 4 A. No, she's not.
 5 Q. Did she resign?
 6 A. No, she did not.
 7 Q. She was terminated?
 8 A. Yes, she was.
 9 Q. Why was she terminated?
 10 A. I don't know if it's — can I ask him a
 11 question?
 12 Q. No, you can't. He can make an objection if he
 13 feels an objection is appropriate.
 14 A. Okay. Then I don't know if it's appropriate
 15 for me to talk about other employees and
 16 reasons for exiting or things like that.
 17 Q. Well, again, unless your attorney makes an
 18 objection, you have to answer the question.
 19 MR. JOHNSON: Let me just make sure of
 20 something. As long as there's no
 21 confidentiality obligations, then I think you
 22 have to answer the question. I don't want you
 23 to speculate or talk about — if you have any
 24 sort of agreement with her to keep anything
 25 confidential, then I think we would need to

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- 1 talk about that.
 2 MR. REINHARDT: And I would agree with you
 3 on that.
 4 A. Okay. Performance, poor performance.
 5 BY MR. REINHARDT:
 6 Q. When Ms. Fjerstad was hired — I'm sorry. Let
 7 me back up because I need to distinguish
 8 between the contract basis and employee. When
 9 CURT Manufacturing decided to take Ms. Fjerstad
 10 on as a programmer/analyst on a contract basis,
 11 how many people were you looking for to be
 12 programmer/analysts? One? Two?
 13 A. Two.
 14 Q. And how was it you came upon the — why did you
 15 conclude that two people were necessary?
 16 A. My past experience suggested that that would be
 17 an appropriate number.
 18 Q. And when you were looking at two
 19 programmer/analysts, did you have some project
 20 task list that you had generated?
 21 A. No, I did not.
 22 Q. Did you have a list anywhere of what you wanted
 23 these two people to do?
 24 A. No, I did not.
 25 Q. You just knew you wanted them to do work to

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- 1 help make the system stable?
 2 A. That's one way of putting it, yes.
 3 Q. How would you put it?
 4 A. I'd put it as we — we had a big ball of
 5 Band-Aids, and that was — that was the
 6 environment that I inherited when I came to
 7 CURT Manufacturing. Fix after fix, patch after
 8 patch was put on our ERP, and it was a very
 9 unstable environment. And the only way to fix
 10 that was to peel off one Band-Aid at a time,
 11 figure out why that Band-Aid was put on, do the
 12 analysis to figure that out, and then eliminate
 13 the need for the Band-Aid. That's the way I
 14 described it to everybody.
 15 Q. Now, when Ms. Fjerstad came on as a contract
 16 programmer/analyst, were there any other
 17 programmer/analysts working in your department
 18 at CURT Manufacturing?
 19 A. Yes, there was.
 20 Q. Who were they?
 21 A. In 2011, Jesse Branderburg I believe was the
 22 only person with that position.
 23 Q. I take it at some point in 2011 you received
 24 information from Orni Resources about Pam
 25 Palzkill?

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- 1 A. Yes.
 2 Q. And what specifically did you receive?
 3 A. A résumé.
 4 Q. When you reviewed her résumé, were you
 5 interested in her being considered as a
 6 contract programmer/analyst?
 7 A. I was excited.
 8 Q. Why were you excited?
 9 A. Because it emphasized MAPICS, it emphasized
 10 RPG, and it emphasized warehouse management
 11 systems.
 12 Q. So she seemed like a good fit based on the
 13 résumé?
 14 A. She did.
 15 Q. Did you interview her?
 16 A. We had a phone interview.
 17 Q. And when you say "we," are you talking about
 18 you and Pam or was anyone else involved?
 19 A. Just Pam and myself, I believe.
 20 Q. Did you take notes during that interview?
 21 A. I did not.
 22 Q. How long did the phone interview last for?
 23 A. 30 minutes to an hour at most.
 24 Q. What did you discuss during the interview?
 25 A. Her past, why she was looking for a job, and

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1 her experiences, and her skills, and why she
 2 left her prior job.
 3 Q. Now, as of the time you had the phone interview
 4 with Ms. Palzkill, had Ms. Fjerstad already
 5 informed you of her opinion that it was
 6 necessary to do work in PowerLink to fix the
 7 problems with the system?
 8 A. I don't believe so, no.
 9 Q. What did Ms. Palzkill tell you in terms of why
 10 she had left her prior job?
 11 A. That she had a major surgery and needed to take
 12 time off.
 13 Q. Did she tell you what the major surgery was?
 14 A. No, she did not.
 15 Q. Did you ask what the major surgery was?
 16 A. I was aware of I think it's HIPAA, and because
 17 of that, I'm under the impression never ask
 18 questions about stuff like that.
 19 Q. You've read HIPAA?
 20 A. No, I have not.
 21 Q. You're making assumptions?
 22 A. I was aware of HIPAA.
 23 Q. What did she tell you in terms of her past
 24 experience?
 25 A. That she programmed in RPG, that she programmed

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1 in an environment where there was a need to
 2 integrate the picking-packing process at Ashley
 3 Furniture with MAPICS, and that that was her
 4 primary role at Ashley.
 5 Q. Did you ask her what languages she was
 6 proficient in?
 7 A. I don't recall.
 8 Q. Did you ask her what languages she had basic
 9 skills in?
 10 A. I don't recall specifically asking that. It
 11 came up in our discussion that she knew RPG.
 12 Q. Did you ask her why she had left her — or why
 13 she was looking for a job at that time?
 14 A. I think she answered that when I asked the
 15 original question on why she left her last job,
 16 so I don't believe I had the need to ask that.
 17 Q. Anything else you can recall discussing with
 18 her during that phone interview?
 19 A. She — the role at Ashley was one of her being
 20 a consultant, the contractor, and that she had
 21 been there for 20 years. That's — that's —
 22 that was my key take-away there.
 23 Q. Was there any discussion during this phone
 24 interview about whether or not she would be
 25 interested in working as an employee eventually

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1 of CURT Manufacturing as opposed to as a
 2 contract employee?
 3 A. That's likely because I would have started the
 4 discussion talking about our environment and changes that were occurring and that I was
 5 looking to fill some positions and this was a
 6 contract-to-hire position.
 7 Q. And do you recall what she said in response to
 8 you bringing up that this was a
 9 contract-to-hire position?
 10 A. No, I don't.
 11 Q. When you say it's a contract-to-hire position,
 12 please explain what you mean by that.
 13 A. That this was a service arm was providing
 14 where they would help us find resources to fill
 15 from a staff augmentation perspective. And if
 16 that resource worked out for us, we would have
 17 the option to hire that person after the term.
 18 Q. Was an agreement made between CURT
 19 Manufacturing and arm Resources that Ms.
 20 Palzkill would work for CURT as a contract
 21 programmer/analyst?
 22 A. For six months, yes.
 23 Q. So Ms. Fjerstad had already been working with
 24 CURT Manufacturing as a contract

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1 programmer/analyst at the time Ms. Palzkill
 2 came on; correct?
 3 A. Yes.
 4 Q. And Ms. Palzkill's position at CURT when she
 5 started was as a contract programmer/analyst;
 6 true?
 7 A. That — that's — that was the goal, yes.
 8 Q. That was the goal, or that's what happened?
 9 A. Do you have a copy of the statement of work for
 10 Pam that I can see? If you do, then I can tell
 11 you exactly what was in the contract.
 12 Q. I don't have that contract.
 13 A. Okay.
 14 Q. Well, in your mind as head of the department,
 15 was she coming on as a programmer/analyst?
 16 A. Yes.
 17 Q. And how were you intending to use her?
 18 A. As a programmer/analyst.
 19 Q. For what projects?
 20 A. For the MAPICS and for our pick-pack process
 21 that's integrated with MAPICS, along with
 22 Varsity, our shipping system. Everywhere that
 23 we use RPG programming.
 24 Q. So as of May of 2011, you have Ms. Fjerstad and
 25 Ms. Palzkill on as programmer/analysts, and I

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1 can't remember the name of the other. Is it
 2 Jesse Brandenburg?
 3 A. Yes.
 4 Q. How did you decide who was going to be doing
 5 what?
 6 A. We had the big ball of Band-Aids, and whichever
 7 Band-Aid was most visible, we peeled that off.
 8 And then we gave that to a resource to figure
 9 out why it was there, to do the analysis, and
 10 then do the programming to fix it.
 11 Q. Were you the person who assigned tasks to Ms.
 12 Palzkill and Ms. Fjerstad?
 13 A. Define tasks.
 14 Q. Work to be done.
 15 A. I'm the person that identified which projects
 16 we would work on. I'm not the person that
 17 assigned tasks.
 18 Q. Well, you identified what projects needed to be
 19 worked on you said; correct?
 20 A. Yes.
 21 Q. And then somebody had to delegate work to be
 22 done on those projects; correct?
 23 A. I wouldn't — wouldn't describe it that way to
 24 be honest.
 25 Q. Let me try it this way. How did Ms. Fjerstad

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1 or Ms. Palzkill know what they were going to be
 2 doing on a day-to-day basis? Did they come up
 3 with those ideas themselves, or did somebody
 4 tell them?
 5 A. The role of the programmer/analyst on the
 6 analyst side of things is to help figure things
 7 out and to manage themselves, yes. So they
 8 would do that themselves, yes, absolutely.
 9 Q. Who was supervising Ms. Palzkill?
 10 A. Initially it was a combination of Paul
 11 Zwirchitz and myself.
 12 Q. Did that change at some point?
 13 A. I hired another project manager, and she was
 14 added to that.
 15 Q. Who was that?
 16 A. Erin Klanderman.
 17 Q. And so you said initially it was Paul and
 18 yourself, then later on after Erin Klanderman
 19 was hired, it would have been Paul, Erin
 20 Klanderman, and yourself?
 21 A. Yes.
 22 Q. Is that how it remained throughout the time Ms.
 23 Palzkill was working there?
 24 A. Yes.
 25 Q. And what did you do in terms of — strike that.

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1 Was one of the ways you supervised Ms. Palzkill
 2 by having one-on-one meetings with her?
 3 A. One of the ways I supervised her? I don't
 4 believe I supervised her.
 5 Q. I thought you — okay. Let me ask the question
 6 again. Who supervised Ms. Palzkill?
 7 A. That would probably be Paul. Define supervise.
 8 Q. Well, define for me what you understand
 9 supervise to mean.
 10 A. Someone that would provide direction as far as
 11 how to do their job.
 12 Q. Are you telling me that because of the nature
 13 of the position no one supervised her?
 14 A. As in how to do their jobs?
 15 Q. Yeah.
 16 A. From a contractor perspective, that would be my
 17 expectation that I'm not going to go in, nor
 18 would anybody else in my department, and tell
 19 people how to write programs. We're expecting
 20 that skill to exist in that person.
 21 Q. Did anyone give Ms. Palzkill direction about
 22 what she was supposed to be doing?
 23 A. Yes.
 24 Q. Who did that?
 25 A. Paul Zwirchitz and myself.

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1 Q. And then —
 2 A. Later on Erin Klanderman, yes.
 3 Q. And how did you folks do that in terms of
 4 telling her what she should be doing?
 5 A. That would have been at the project level where
 6 we're peeling off a Band-Aid and we're saying,
 7 Here's our problem, go figure out why we need
 8 this problem, and write some programs to fix
 9 it.
 10 Q. Did you have one-on-one meetings with Ms.
 11 Palzkill?
 12 A. I did, yes.
 13 Q. Why did you have those meetings?
 14 A. Because I needed to keep current with what was
 15 going on in my department.
 16 Q. Did you have one-on-one meetings with Ms.
 17 Fjerstad?
 18 A. Yes.
 19 Q. Why did you have those meetings?
 20 A. Because I needed to be kept current with what
 21 was going on in my department.
 22 Q. So it was an informational thing?
 23 A. Yes.
 24 Q. How often did those meetings occur with Ms.
 25 Palzkill?

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- 1 A. Maybe once a month.
 2 Q. Did you schedule them?
 3 A. They were scheduled weekly.
 4 Q. They were scheduled weekly by who? You?
 5 A. Yes.
 6 Q. How would you schedule them?
 7 A. Send a calendar appointment. It's a recurring appointment that occurs every week.
 9 Q. Where did those meetings occur? Strike that.
 10 Where were they scheduled to occur?
 11 A. Initially in my office.
 12 Q. What calendar system was she using when she was at CURT Manufacturing? Was it outlook?
 14 A. Outlook.
 15 Q. And you're saying that it would be scheduled in advance for every week?
 17 A. You schedule one appointment, and you say weekly to set it up to recur, and you set up the frequency of recurrence and the duration of the recurrence.
 21 Q. Was it set for a particular day then?
 22 A. It was.
 23 Q. What day?
 24 A. I don't recall.
 25 Q. What time?

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- 1 A. I don't recall.
 2 Q. What location? Your office?
 3 A. My office.
 4 Q. And I take it from your testimony that although you alleged the meetings were scheduled weekly, that they only, in fact, took place monthly?
 7 A. I would say on average we probably met once every four weeks.
 9 Q. And given the fact that you say that you had set them up recurring on a weekly basis, why did they occur on average every month instead of every week?
 13 A. Two reasons. One was my schedule; I couldn't always make it. And the other, Pam just didn't show up.
 16 Q. How many times do you allege she just didn't show up?
 18 A. I'd say it's probably split between my schedule and her not showing up equally.
 20 Q. Did that upset you when she didn't show up?
 21 A. No, it didn't upset me.
 22 Q. Why not?
 23 A. Define upset.
 24 Q. You don't know what upset means, sir? Did it make you angry?

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- 1 A. No, it did not make me angry.
 2 Q. Did it cause you any concern?
 3 A. It made me wonder.
 4 Q. Did you say, Pam, why aren't you showing up for these meetings?
 6 A. Yes.
 7 Q. What was her response?
 8 A. She was busy.
 9 Q. And what did you say when she said, I couldn't show up because I was busy?
 11 A. I said okay.
 12 Q. Anything else you said?
 13 A. Nope.
 14 Q. Did she give you advance notice if she wasn't going to be able to show up for a meeting?
 16 A. It might have happened, but not all the time.
 17 Q. And when did this first start to be an issue?
 18 A. Immediately when she started?
 19 A. Yes.
 20 Q. So the first month of her employment you had scheduled these one-on-one meetings for every week, and she only showed up one time?
 23 A. No, no. It was split between my schedule and hers, so her not showing up could have been both.

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- 1 Q. So sometimes she would show up, and you wouldn't be there?
 3 A. No. I always let her know.
 4 Q. How did you let her know?
 5 A. I would cancel the appointment.
 6 Q. On the calendar?
 7 A. Or I would tell her. One of the two.
 8 Q. So if we look at the calendar, all of that should be there; correct?
 10 A. Not likely, no.
 11 Q. Why not?
 12 A. When you cancel it, it deletes it. It's not there.
 14 Q. Well, but if you printed off the calendar for a period of time, it should show the scheduled meetings recurring; correct?
 17 A. I'm — I don't believe — I don't believe on my calendar I can go back that far because everything gets deleted after it's old because we don't have enough disc capacity to store everything.
 22 Q. Did you ever tell Ms. Palzkill that, Hey, it's a problem with me — or words to that effect — when we have a meeting scheduled and you don't show up and tell me that you're not going to

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- 1 show up?
 2 A. No.
 3 Q. Why not?
 4 A. It wasn't a problem to me.
 5 Q. While Ms. Palzkill was a contract
 6 programmer/analyst at CURT Manufacturing, were
 7 there periodically scheduled staff meetings in
 8 your department?
 9 A. Yes.
 10 Q. Were those regularly scheduled meetings, in
 11 other words, on the calendar for a set date and
 12 time or were they ad hoc?
 13 A. At that time I think they were regular. I'm
 14 not positive, but I think they were.
 15 Q. Weekly?
 16 A. I believe that was, yeah.
 17 Q. Where did those meetings occur?
 18 A. In the Wisconsin Conference Room.
 19 Q. By the way, let me just back up a second
 20 because you said initially the one-on-one
 21 meetings were scheduled for your office. Did
 22 that change at some later date as to where
 23 those one-on-one meetings would occur?
 24 A. It did.
 25 Q. When did it change?

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- 1 A. I don't recall the date.
 2 Q. What was the change?
 3 A. The change was — it changed twice, and I'm not
 4 sure if Pam was there when it had changed the
 5 second time or not. But the first time it
 6 changed from weekly to every other week, and
 7 then the second time it changed from every
 8 other week to monthly.
 9 Q. Why did you make that change?
 10 A. Because I was becoming too busy. My department
 11 was growing, and I didn't have the time to
 12 spend with everybody individually that way any
 13 longer.
 14 Q. When that happened, when you didn't have the
 15 time, how did you keep abreast of what was
 16 going on in terms of information?
 17 A. I would rely more on Paul and Erin and the —
 18 on the other side of the — the department, the
 19 manager there.
 20 Q. And, again, Paul and Erin were project
 21 managers?
 22 A. That was their title, yes.
 23 Q. And let me ask this slightly different. I took
 24 your testimony to mean that the location of the
 25 one-on-one changed from your office to

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- 1 somewhere else. Did the location of the
 2 one-on-one meetings with Ms. Palzkill ever
 3 change from your office?
 4 A. Yes.
 5 Q. And when did that occur?
 6 A. Well, I said yes, but I don't — I can't
 7 address Pam and ask her, but I don't — I
 8 don't — I don't recall if Pam was there when I
 9 changed it to be monthly or not. If she was
 10 there when I changed it to be monthly, that was
 11 a lunch meeting.
 12 Q. At a restaurant?
 13 A. To be determined, yes.
 14 Q. And you just don't recall if she was still
 15 there when that change was made?
 16 A. I do not. I want to believe she was because I
 17 think it was happening that fast, the amount of
 18 change that was occurring. So it's highly
 19 likely she was.
 20 Q. Were those lunch meetings at a particular
 21 restaurant or did it vary?
 22 A. I believe the — I believe it was to be
 23 determined.
 24 Q. I understand it was to be determined. But in
 25 practice, was the to-be-determined restaurant

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- 1 always the same restaurant, or did you go to
 2 different restaurants for one-on-one meetings?
 3 A. Pam and I never met at a restaurant for a
 4 meeting.
 5 Q. You did meet with other people at restaurants
 6 for one-on-one meetings?
 7 A. Yes.
 8 Q. When you met with those folks at restaurants
 9 for one-on-one meetings, was it at the same
 10 restaurant or different restaurants?
 11 A. Different restaurants.
 12 Q. And where were those restaurants located?
 13 A. Eau Claire, Wisconsin.
 14 Q. Did you ever have a discussion with Pam about
 15 why — did Pam ever express to you that she
 16 didn't want to attend one-on-one meetings with
 17 you at a restaurant?
 18 A. Now that you ask me that question, I do recall
 19 that she was there when I changed this to
 20 monthly. And, yes, she did. She asked me if
 21 we could just meet at work.
 22 Q. Did she tell you why?
 23 A. No.
 24 Q. Did you ask why?
 25 A. No.

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- 1 Q. What was your response?
 2 A. Okay.
 3 Q. And is that what occurred then?
 4 A. Nope.
 5 Q. What do you mean?
 6 A. We still never met.
 7 Q. Now, when you had one-on-one meetings with Ms. Palzkill, did you take notes?
 8 A. No.
 10 Q. Did you type anything on your computer to document what was said or what occurred at those meetings?
 13 A. No.
 14 Q. I have seen some documents that are titled Weekly Status Reports. Did Ms. Palzkill while she was working for CURT Manufacturing as a contract-to-hire programmer/analyst fill out weekly status reports?
 19 A. She filled out a report occasionally that was titled Weekly Status Report.
 21 Q. You say "occasionally." What do you mean by that?
 23 A. She did not do it weekly.
 24 Q. How do you know that?
 25 A. Because I read them.

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- 1 Q. So if she prepared a weekly status report, you would have read it?
 3 A. No. It could have happened where she prepared it and didn't send it.
 5 Q. How did it get to your attention? Was it emailed to your attention?
 7 A. Yes.
 8 Q. So it wasn't hard copied?
 9 A. Correct.
 10 Q. What's the purpose of a weekly status report? Strike that. What was the purpose of a weekly status report as it pertained to Ms. Palzkill?
 13 A. There's three purposes of the weekly status report. One is internal communication to everyone in the department.
 16 Q. Second purpose?
 17 A. I was waiting for you.
 18 Q. Go ahead.
 19 A. The second purpose is communication to me on what they're doing, and the third purpose is to add to the skill for people to be able to break bigger projects into smaller events to manage those events.
 24 Q. Did you say to add to the scale?
 25 A. Skill.

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- 1 Q. Skill. So who did the status reports go out to when they were prepared by Ms. Palzkill in addition to you? Everyone in the department?
 4 A. Yes.
 5 Q. So it would have been a mass email?
 6 A. Yes.
 7 Q. And was there any room — not any room. But were you able to make comments on the status report?
 10 A. I don't understand the question.
 11 Q. Sure. The weekly status reports came to you occasionally, as you said, prepared by Ms. Palzkill. Were you able to enter any data or comments on the weekly status report that she prepared?
 16 A. Update the document? Is that your question?
 17 Q. Yeah.
 18 A. Did I update their documents?
 19 Q. Yeah.
 20 A. No, I did not.
 21 Q. Were you able to if you were so inclined?
 22 A. I could update the attachment on my email and save it. I could do that, yes. I never did.
 24 Q. Going back to the staff meetings. Forgive me for repeating this question. How often — did

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- 1 you say that was weekly that they occurred?
 2 A. What are we talking about right now? What's weekly?
 4 Q. The staff meetings.
 5 A. Staff meetings. I believe they were, yes. I think they might have changed from weekly to two weeks to monthly also, but at the time I think it was weekly.
 9 Q. And they were in the Wisconsin Conference Room.
 10 A. Is that what you said?
 11 A. I believe that's correct, yes.
 12 Q. Who attended the staff meetings?
 13 A. The IT department.
 14 Q. How many employees were in the IT department at the time Ms. Palzkill was there?
 16 A. Approximately.
 17 A. Approximately 10.
 18 Q. What was the purpose of the staff meetings?
 19 A. That's a good question because I always put it up to the staff. I said, This is your meeting, not my meeting.
 22 Q. Was there an agenda ahead of time?
 23 A. No.
 24 Q. Or minutes taken?
 25 A. No.

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- 1 Q. So you left it up to the staff as to what would
2 be discussed?
3 A. Yes.
4 Q. And in practice I understand that it wasn't —
5 you didn't dictate it, but what type of things
6 were discussed at those meetings?
7 A. Typically everyone present went around and
8 described what they were working on.
9 Q. What other type of things were discussed?
10 A. I would talk about what's going on in the
11 business.
12 Q. What do you mean?
13 A. Our business is a rapidly growing, changing
14 business, and I would give updates to the
15 department that I had.
16 Q. When everyone went around and talked about what
17 they were working on, did Ms. Palzkill share
18 what she was working on?
19 A. Sometimes.
20 Q. Are you saying that there were times that
21 everyone in the room would say what they were
22 working on and Ms. Palzkill would not?
23 A. Yes.
24 Q. How often did that occur?
25 A. At the end, every time. As in the last

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- 1 probably three months.
2 Q. And did you say to Ms. Palzkill, Hey, it would
3 be helpful if you would share what you're
4 working on during the staff meetings?
5 A. I did not.
6 Q. Why not?
7 A. It wasn't my meeting.
8 Q. Did you think it would have been helpful during
9 the last three months for her to share what she
10 was working on during these staff meetings when
11 everyone was doing so?
12 A. Helpful to who?
13 Q. To anybody in the meeting.
14 A. Yes.
15 Q. Did anybody else present at the meetings during
16 the last three months when Ms. Palzkill
17 allegedly didn't state what she was working on
18 say to her in your presence, Hey, why don't you
19 share with us what's going on?
20 A. No.
21 Q. Did you ask her during these three months why
22 she wasn't sharing what was going on with her
23 projects at the staff meetings?
24 A. No.
25 Q. So that was a change during the last three

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- 1 months?
2 A. What — what was a change?
3 Q. Her nonparticipation in the sharing of what was
4 going on.
5 A. That's correct, yes.
6 Q. What did you attribute it to, if anything?
7 A. My assumption — the way you're asking the
8 question you want me to assume, so my
9 assumption is that Pam wanted to be a
10 contractor, and she did not want to be part of
11 this department. She wanted to keep herself
12 separate from the department.
13 Q. Did you ever ask her if that was what was going
14 on?
15 A. No.
16 Q. Did you ever hear Ms. Palzkill complaining at
17 staff meetings?
18 A. Yes.
19 Q. How many times did you hear that?
20 A. I don't recall.
21 Q. What did you hear her saying?
22 A. The theme was always, There's too much, there's
23 not enough standards, there's no structure, I
24 need help.
25 Q. Did you respond to that?

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- 1 A. In my discussions with Pam when I did talk to
2 her about stuff, yeah, I did.
3 Q. What did you say?
4 A. I talked to her about the analyst side of the
5 business need that we had and that she should
6 be able to go in and look at these programs;
7 she shouldn't have to be told what programs,
8 what files to use. That was her job.
9 Q. But the grumblings you heard where she said
10 these things, There's too much, not enough
11 standards, I need help, those were comments she
12 made at staff meetings?
13 A. Grumblings? I'm not sure I understand
14 grumblings.
15 Q. Well, when I — okay. Let's do it this way.
16 The comments that you said she made —
17 A. Um-hum.
18 Q. — that you testified to about a minute ago —
19 A. Yep, yep.
20 Q. — were those comments made at staff meetings?
21 A. Sometimes, yes.
22 Q. Where else were they made?
23 A. When I was talking to her.
24 Q. When the comments were made at staff meetings,
I take it it would have been in the presence of

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- 1 all other staff then; true?
 2 A. Yes.
 3 Q. Did you ever hear her say, These assholes won't
 4 get off our back?
 5 A. Can you say that again?
 6 Q. Did you ever hear Ms. Palzkill say, These
 7 assholes won't get off our back, or words to
 8 that effect?
 9 A. I don't recall.
 10 Q. Did anyone ever tell you that she said that?
 11 A. I don't recall.
 12 Q. Did you ever hear Ms. Palzkill say that she
 13 wasn't happy working at CURT Manufacturing?
 14 A. No.

15 MR. JOHNSON: Would now be a good time for
 16 a break?

17 MR. REINHARDT: Yeah. Let's take a
 18 five-minute break.

19 (A break was taken.)

20 BY MR. REINHARDT:

- 21 Q. During any of the conversations that you had
 22 with Ms. Fjerstad about PowerLink, was Ms.
 23 Palzkill present?
 24 A. I believe she was, yes. As in the area.
 25 Q. Was she a participant in any of those

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- 1 A. The name of the company is Infor, I-N-F-O-R.
 2 Q. And who at Infor was part of convincing you
 3 that PowerLink was important?
 4 A. There was a couple of presentations that I saw
 5 at conferences where they presented, They're no
 6 longer developing in RPG, they're only
 7 developing in PowerLink.
 8 Q. Does CURT Manufacturing currently have anyone,
 9 any programmer/analysts, who are doing RPG
 10 work?
 11 A. Yes.
 12 Q. Back to my question. Are you telling us that
 13 the presentations put on by Infor were
 14 important in your decision that PowerLink was
 15 an essential part of programming at CURT
 16 Manufacturing? Let me rephrase the question.
 17 I was trying to get the identity of any
 18 individuals at Infor who would have told you,
 19 Hey, it's important to use PowerLink. Were
 20 there individuals at Infor that told you that,
 21 or was it based upon presentations that Infor
 22 made?
 23 A. There was a presentation, I raised my hand, I
 24 asked the question of what types of resources
 25 they were hiring, and the answer was PowerLink.

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- 1 conversations?
 2 A. No.
 3 Q. Did you ever make a comment at a staff meeting
 4 or at staff meetings that you wanted RPG
 5 programmers only to be programming in RPG?
 6 A. I don't believe I said that in a staff meeting,
 7 but I did say that to Kathy.
 8 Q. And that would be the conversation that you
 9 previously testified about?
 10 A. When Kathy talked to me about using — having
 11 the need to know PowerLink, yes. And then I
 12 believe Pam was in the area of, yes.
 13 Q. And it's your feeling — well, not your
 14 feelings. Basically you're telling us that Ms.
 15 Fjerstad convinced you that PowerLink was
 16 essential to be a program — to have knowledge
 17 of that was essential to be a
 18 programmer/analyst at CURT Manufacturing; is
 19 that true?
 20 A. She was part of that effort, yes, of convincing
 21 me, yes.
 22 Q. Who else was part of that effort?
 23 A. Infor is the name of the company that owns
 24 MAPICS.
 25 Q. Infor as in information without the "ation"?

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- 1 They were not hiring — the person made the
 2 statement, They were no longer hiring RPG
 3 programmers.
 4 Q. Why was that important to you in your decision?
 5 A. Because MAPICS is our business system that — I
 6 have a vision that isn't going away. It will
 7 be there for a very long time, and I need to be
 8 able to support that business system. So if
 9 the owners of that system are no longer
 10 developing in RPG, that's just — the skill set
 11 needed to support it is no longer just going to
 12 be RPG.
 13 Q. Was training in PowerLink provided to any
 14 programmer/analysts at CURT Manufacturing in
 15 2011?
 16 A. Yes.
 17 Q. Were you responsible in 2011 for putting
 18 together a budget for your department?
 19 A. Yes.
 20 Q. Did you have to build in ahead of time; that
 21 is, at the time of doing the budget, if you
 22 were going to have training that was an expense
 23 for programmer/analysts?
 24 A. Training was part of the budget. I'm not sure
 25 if — training was part of my budget, yes.

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- 1 Q. In other words, if you're in 2011, you're
2 working off a budget that would have been
3 prepared in late 2010, early 2011; correct?
4 A. Yes.
5 Q. And as part of preparing that budget, did you
6 have to identify specifically what training
7 would be provided?
8 A. No.
9 Q. Was that identified in the 2011 budget, what
10 training specifically was going to be provided?
11 A. I don't believe so, no.
12 Q. What about 2012?
13 A. I don't believe so, no.
14 Q. In any event, who made the decision in 2011
15 that training would be provided to
16 programmer/analysts in PowerLink?
17 A. I did.
18 Q. And when in the year 2011 did you make that
19 decision? If you can't recall a month, if you
20 could tell me a season.
21 A. Specific to your question regarding
22 programmer/analysts, Jesse I believe went in
23 the early — early winter of 2011.
24 Q. And by early winter, do you —
25 A. Like January, February time frame. I don't

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- 1 remember when the class was. I'm sorry. But
2 Jesse went with a couple other resources that
3 weren't programmer/analysts.
4 Q. So this would have been before Ms. Fjerstad had
5 convinced you that PowerLink was essential?
6 A. Yes.
7 Q. So why were you sending Jesse in January or
8 February of 2011 if you hadn't had that
9 discussion with Ms. Fjerstad yet?
10 A. At the time I believed that the roles would be
11 separate.
12 Q. What do you mean?
13 A. That the skills didn't cross paths. I was
14 still basing it off my 20 years of experience
15 earlier that MAPICS was an RPG system.
16 Q. What type of work was Jesse doing at CURT
17 Manufacturing in January and February of 2011?
18 A. He was a programmer/analyst helping support RPG
19 and PowerLink programs. In addition, he had a
20 tool he supported called Formtastic.
21 Q. Which is what?
22 A. It's a — when you create an invoice, the
23 document that prints from the ERP system is a
24 very basic-looking document. Formtastic takes
25 that basic-looking document as input and makes

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- 1 it look pretty. In addition to that, he worked
2 with labels and created labels.
3 Q. So Jesse you believe went in January or
4 February or 2011 to PowerLink training. Where
5 was that training?
6 A. Oconomowoc, Wisconsin.
7 Q. Who was it put on by?
8 A. ISE is the name of the company.
9 Q. How many days was it?
10 A. I think there was a three-day and a two-day,
11 combined five-day, or it's three-day and
12 one-day, maybe. I think it's four days total.
13 Q. When is the next time in 2011 that anyone from
14 your department went to PowerLink training?
15 A. Another group I believe it was May, June time
16 frame.
17 Q. Was Ms. Palzkill working —
18 A. August. Sorry. I think it was August.
19 Q. And was Ms. Palzkill working at CURT
20 Manufacturing as a contract-for-hire
21 programmer/analyst at the time the second group
22 went?
23 A. Yes.
24 Q. Who was in the second group?
25 A. I know Kathy Fjerstad was, and I'm not sure who

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- 1 else.
2 Q. Now, how is it that the training was arranged
3 for the second group? Did you send out
4 something indicating to people that they were
5 able to go, or how was it communicated to
6 people that they were — that the option was
7 there?
8 A. I talked to them personally.
9 Q. So you talked to Ms. Fjerstad personally?
10 A. Yes.
11 Q. What did you tell her?
12 A. That there was a training class in PowerLink,
13 and I wanted her to attend it.
14 Q. Who else did you talk to?
15 A. Pam.
16 Q. You personally talked to Pam about attending
17 PowerLink training in Oconomowoc; is that
18 correct?
19 A. Multiple times.
20 Q. When was the first time?
21 A. It would have been in August.
22 Q. When was the second time?
23 A. The next class — I don't know exact dates. I
24 think — I think that's information that we
25 provided, what would have been the timing of

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- 1 the next class.
 2 Q. How many times did you speak personally with
 3 Pam about her attending PowerLink training?
 4 A. Three times.
 5 Q. Was anybody else present on any of those three
 6 occasions?
 7 A. Present as in the area? Yes.
 8 Q. Who?
 9 A. Would have been other people that were sitting
 10 in the area at that time.
 11 Q. Who?
 12 A. But I don't know who specifically it was at
 13 that time, but I know people were. We were in
 14 tight quarters.
 15 Q. So the first time that you talked to Pam about
 16 PowerLink training what specifically did you
 17 say to her?
 18 A. I talked to her about knowledge, skills, and
 19 talent, which is a common theme that I talk to
 20 all my resources about. Knowledge being
 21 something you learn over the time of your job,
 22 skills being something you're trained on, and
 23 talent being something you're born with. And
 24 at CURT Manufacturing we needed resources with
 25 multiple skills, and I often referred to skills

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- 1 as being wearing multiple hats. I talked to
 2 Pam about the need to wear multiple hats.
 3 Q. So what did you say to her about PowerLink
 4 training?
 5 A. That the way this department was growing and
 6 going there was going to be a need for the
 7 programmer/analyst to know PowerLink, and I
 8 wanted to send her to PowerLink training.
 9 Q. You specifically told her that you wanted to
 10 send her to PowerLink training?
 11 A. Yes, multiple times.
 12 Q. What did she say in response?
 13 A. I only want to be an RPG programmer.
 14 Q. Is that a verbatim response?
 15 A. Yes, multiple times.
 16 Q. So each time you allegedly told her that you
 17 wanted to send her to PowerLink training, her
 18 response was the same, I only want to be an RPG
 19 programmer?
 20 A. Yes, multiple times.
 21 Q. My question was each time that you said that to
 22 her, her response was the same; true?
 23 A. Yes.
 24 Q. And did you ever take notes after these
 25 conversations?

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- 1 A. No.
 2 Q. Did you ever share with anybody else in
 3 management that you had offered to send Pam to
 4 PowerLink, and she had refused?
 5 A. No.
 6 Q. Kept that to yourself?
 7 A. Yes.
 8 Q. Do you have any documents, such as emails,
 9 correspondence, or anything else in writing,
 10 indicating that you offered to Ms. Palzkill
 11 that she could attend PowerLink training?
 12 A. No.
 13 Q. Did you ask Ms. Palzkill while she was a
 14 contract-for-hire employee at CURT
 15 Manufacturing whether or not she had the
 16 ability, the base knowledge, to work in
 17 PowerLink?
 18 A. No.
 19 Q. To your knowledge, did Ms. Palzkill do any work
 20 on her own to learn PowerLink?
 21 A. At her deposition she pointed out that she did
 22 do one thing.
 23 Q. Did you know about that?
 24 A. It was on her status report. I didn't recall
 25 it to be honest with you.

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- 1 Q. You've since looked back at a status report
 2 that references her doing some work in
 3 PowerLink?
 4 A. At the deposition, yes.
 5 Q. In 2011 and 2012 what fringe benefits were
 6 available to employees of CURT Manufacturing in
 7 the IT department?
 8 A. Fringe benefits as in health care? Is that the
 9 type of thing you're talking about?
 10 Q. That's what a fringe benefit is generally
 11 referred to as, yes. Is health care available?
 12 A. Health care is, yes.
 13 Q. Was there any type of retirement plan?
 14 A. There's a 401k plan.
 15 Q. And in 2011 and 2012 did CURT Manufacturing
 16 match any percentage of employees'
 17 contributions?
 18 A. I think there was — there is a match, yes.
 19 Q. What amount is the match? Strike that. What
 20 amount was the match back then, if you know?
 21 A. I think it's six percent up to — so you
 22 contributed six percent, and then the company
 23 50 cents I think of that.
 24 Q. 50 cents up to the six percent?
 25 A. Up to the six percent, yes.

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- 1 Q. Any other benefits that you can think of? Life
2 insurance? Disability insurance? Anything
3 like that?
- 4 A. There's — there's — Aflac is an option where
5 you can subscribe to stuff yourself. I think
6 there's a — there's a — there's a workout
7 facility thing. If you attend a workout
8 facility, you get five dollars or something
9 like that.
- 10 Q. Now, did you during 2011/2012 have meetings
11 with project managers in the department on a
12 regular basis?
- 13 A. Yes.
- 14 Q. Were those weekly meetings? Monthly meetings?
- 15 A. I don't think at that time we had them
16 regularly, regular scheduled like that, but
17 maybe we did. I don't recall.
- 18 Q. Let me ask it this way then.
- 19 A. We met often.
- 20 Q. Did you have discussions with any of the
21 project managers at CURT Manufacturing about
22 your or their assessment of Pam Palzkill's
23 performance as a contract-for-hire
24 programmer/analyst?
- 25 A. To those specific words, no. If I can

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- 1 elaborate, I will.
- 2 Q. Please elaborate.
- 3 A. We had — we had discussions on the design of
4 the department and whether or not skills
5 existed to meet that design of the department,
6 individuals.
- 7 Q. Let me — and we'll get — I appreciate that
8 clarification. Let me ask it this way. The
9 way I envisioned it is you're in charge of this
10 department, you have these contract-for-hire
11 people, and you'd be asking the project
12 managers, Hey, how is Pam doing, is she doing
13 good, bad, what are her strengths, weaknesses?
14 Did you have those type of discussions with the
15 project managers who had worked with Pam?
- 16 A. Yes.
- 17 Q. What did they tell you?
- 18 A. I'm trying to recall specific discussions, and
19 I don't recall specific discussions.
- 20 Q. If you can't recall specific discussions,
21 that's okay. What I'm trying to get at is
22 generally what thoughts did they convey to you.
- 23 A. That progress was slow, that there was
24 reluctance to do the analysis side of things.
25 Those are probably the two.

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- 1 Q. Who told you that? Paul?
- 2 A. Erin and Paul.
- 3 Q. Anybody else?
- 4 A. No.
- 5 Q. And what was your — strike that. In terms of
6 progress was slow, what did you understand that
7 to mean? Progress on what?
- 8 A. The projects that were provided to her,
9 obtaining results.
- 10 Q. And what objective measures or metrics were
11 used to determine whether or not progress was
12 slow or adequate or fast?
- 13 A. Past experiences.
- 14 Q. What does that mean?
- 15 A. That would be the knowledge — part of
16 knowledge, talent, and skills. So the
17 knowledge you've gained by programming over
18 time.
- 19 Q. So, in other words, your understanding of
20 progress is slow was here's what it took
21 somebody else to do something like this, and
22 here's how long it's taking Pam, and she's
23 taking longer than it should. Is that what
24 you're telling me?
- 25 A. That contributes to it.

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- 1 Q. I'm just trying to get a sense of when you
2 understood that progress was too slow, how do
3 you determine if progress was slow, adequate,
4 or otherwise. One thing you've mentioned to me
5 is you did that based on past experience. Are
6 there any other metrics or measurable ways that
7 you're able to tell whether or not Pam's
8 progress was slow, adequate, or quick?
- 9 A. Yes.
- 10 Q. What?
- 11 A. When the project starts, you ask the resource
12 you're assigning that to, How long do you think
13 it's going to take?
- 14 Q. And I take it from your answer that on occasion
15 Pam would say, I think it will take this long,
16 and it took longer than that?
- 17 A. Yes.
- 18 Q. Did you ever ask her why it took longer than
19 she had originally anticipated?
- 20 A. Yes.
- 21 Q. What did she say?
- 22 A. That there's a lot of files to try to figure
23 out what to do, and she needed someone to tell
24 her what files were needed.
- 25 Q. Did you communicate with Ms. Palzkill by email

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- 1 while she worked at CURT Manufacturing as a
 2 contract-for-hire programmer/analyst?
 3 A. Emails were exchanged and provided to you guys,
 4 every email.
 5 Q. Sure. I understand that. So you did
 6 communicate with her by email?
 7 A. I don't know that I would call the emails that
 8 were exchanged communication, but the emails
 9 were sent back and forth, yes.
 10 Q. Let me ask you this then. Why would you on
 11 some occasions talk to her in person and on
 12 other occasions send her emails?
 13 A. Yeah, I guess you're right. Email — I'm not a
 14 fan of email as being a form of communication
 15 personally, so I usually try to avoid it. But
 16 I did communicate via email.
 17 Q. Your preference in your position at CURT
 18 Manufacturing was to communicate with employees
 19 in your department or contract-for-hire people
 20 in your department in person; is that correct?
 21 A. Yes.
 22 Q. But on occasion you would use emails?
 23 A. Yes.
 24 Q. At some point did you decide that Ms. Palzkill
 25 would not be a good fit for becoming an

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- 1 employee of CURT Manufacturing?
 2 A. Yes.
 3 Q. When?
 4 A. The exact date I don't know. I'll throw out
 5 that it was around October of 2011.
 6 Q. You can say the fall of 2011?
 7 A. Could I say that?
 8 Q. Yeah.
 9 A. Sure.
 10 Q. And was there a particular event or occurrence
 11 that led you to conclude in October of 2011
 12 that Ms. Palzkill would not be a good fit to
 13 hire?
 14 A. Yes.
 15 Q. What occurred?
 16 A. It was a discussion that I was having with her
 17 about wearing multiple hats and the need for
 18 her to learn PowerLink and her comment that she
 19 only wanted to be an RPG programmer, and my
 20 response, That's okay from a contractor
 21 perspective, but the design of the department
 22 is suggesting I need programmers/analysts that
 23 know PowerLink. So as long as there's a need
 24 for RPG — dedicated RPG programming, I'd be
 25 able to keep her on as a contractor.

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- 1 Q. That would have been the second or third
 2 conversation you allegedly had about PowerLink
 3 with her?
 4 A. That would have been the second.
 5 Q. And that's when in your mind it was clear you
 6 weren't going to hire her; correct?
 7 A. Everything was pointing to that direction
 8 unless she changed her position on only being
 9 an RPG programmer.
 10 Q. Did you contact Orni Resources in September or
 11 October of 2011 to ask about when Pam Palzkill
 12 would be available to be hired as an employee?
 13 A. That sounds about the right time frame, yes.
 14 Q. Why would you have done that if you had already
 15 made your mind up that she wasn't a good fit?
 16 A. I believe that was before. You said — what
 17 were the months you just said?
 18 Q. September or October.
 19 A. Okay. That was before.
 20 Q. Okay.
 21 A. And I would do that because I was exploring all
 22 the options available to me for my department
 23 as we were growing.
 24 Q. Did you have any discussions with Ms. Palzkill
 25 prior to October of 2011 about her becoming an

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- 1 employee, being hired as an employee?
 2 A. I believe it started the first time during the
 3 phone interview. I think I've already
 4 testified to that.
 5 Q. You've testified to that. Let's go forward
 6 from that. What was the next conversation you
 7 had with her about becoming an employee?
 8 A. I'd say late summer, early fall. I might be
 9 wrong.
 10 Q. Tell me about that conversation.
 11 A. It was geared towards if there's a need for a
 12 dedicated programmer/analyst because she had
 13 already told me she only wanted to be — I'm
 14 sorry — dedicated RPG programmer, she had
 15 already told me that. If there was that need,
 16 would she be interested.
 17 Q. What did she say?
 18 A. Yes. And that's what led me to contact Orni.
 19 Q. When Ms. Palzkill allegedly told you, I only
 20 want to be an RPG programmer, in response to
 21 your saying, we're looking for somebody with
 22 multiple skills, did you ask her why?
 23 A. Yes.
 24 Q. What did she say in response?
 25 A. That's what I want.

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- 1 Q. Did she tell you or explain why that's what she
2 wanted?
3 A. No.
4 Q. Did you have a need for an RPG dedicated
5 programmer in 2012?
6 A. No.
7 Q. When did Ms. Palzkill disclose that she had MS?
8 A. During one of the meetings I was having with
9 her on talking to her about if there's a need
10 for a dedicated RPG programmer would she be
11 interested.
12 Q. Do you recall what month that was?
13 A. You know, it's in my notes. If you can show me
14 what those notes are —
15 Q. I'm not going to show you your notes.
16 A. — I can tell you exactly then.
17 Q. If you don't know without looking at documents,
18 tell me that.
19 A. I don't know without looking at the document.
20 Q. Tell me about the conversation. What did she
21 say to you?
22 A. What did she say to me?
23 Q. How did the topic come up?
24 A. I was exploring options, and that's what I told
25 her, that I'm still exploring where we're going

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- 1 with this department, and I wanted to keep her
2 current. She was there under the impression
3 she was going to be hired.
4 Q. Why do you say that?
5 A. Because it was revealed to her during the phone
6 screen. I already testified to that.
7 Q. So how did the — what did she say about MS?
8 A. So I was talking to her about it, she said she
9 was interested, and I don't know if it was that
10 time or the next time we talked about it, one
11 of two, she said, I want you to know that I
12 have MS.
13 Q. Anything else she said about her MS?
14 A. No.
15 Q. What did you say?
16 A. That — I said okay, and I paused for a little
17 bit trying to figure out why did somebody just
18 tell me this, why did a contractor just tell me
19 this.
20 Q. Did you ask her then?
21 A. So I asked her, I said, Why — why are you
22 telling me this?
23 Q. What did she say?
24 A. She said, I don't want there to be any
25 surprises.

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- 1 Q. What did you say?
2 A. I said okay. I thought about it some more, and
3 I said, well, this isn't a concern of mine.
4 Q. Did you tell her that you would have to talk to
5 anybody else in management about it?
6 A. About MS?
7 Q. Yeah.
8 A. No, I did not.
9 Q. Did you talk to anybody else in management
10 about her MS?
11 A. Did I —
12 Q. Did you talk to Kim Myers about the fact she
13 had disclosed that — strike that. Let me
14 start over. Did you talk to Kim Myers about
15 the fact that Ms. Palzkill had disclosed to you
16 that she had MS?
17 A. Did I tell Kim Myers that in a conversation?
18 Q. Yeah.
19 A. Yes, I did.
20 Q. When?
21 A. After.
22 Q. Why?
23 A. Why? Because I'm aware of HIPAA. I haven't
24 read HIPAA. I'm aware of HIPAA. And when any
25 health issue comes up with someone, I go to HR,

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- 1 and I say, HR, what do I do about this because
2 I'm not an expert. I don't know the laws.
3 Q. So what did you tell Ms. Myers?
4 A. I told her that one of the options I'm pursuing
5 is having — having Pam as a contractor because
6 this was after the fact. You skipped a part
7 here. So this is after Pam said she wanted to
8 be a contractor. And during that discussion, I
9 said, You know, I want you to be aware this
10 happened, and I don't know what to do about
11 that from a HIPAA perspective.
12 Q. What did she say?
13 A. I don't remember her exact words, but I recall
14 that I left thinking, There's nothing to do,
15 that she brought it up, and there's nothing to
16 do about it.
17 Q. Did you talk to Robert — is it Roemer or
18 Ra-mer?
19 A. Bob Roemer.
20 Q. Did you talk to Rob Roemer about the fact that
21 Ms. Palzkill had disclosed MS to you?
22 A. Never.
23 Q. Did you ever talk to Ms. Palzkill and tell her
24 that you had talked to Ms. Myers and
25 Mr. Roemer, and they had told you that her MS

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- 1 would be a problem or a concern?
 2 A. No.
 3 Q. You deny that?
 4 A. Absolutely.
 5 Q. Now, you indicated that — did you —
 6 subsequent to the conversation where Ms.
 7 Palzkill disclosed her MS, did you ever talk to
 8 her about MS again? Did the topic ever come up
 9 in any other conversations?
 10 A. I don't know if it was that or a different one,
 11 but we had a conversation about my own past
 12 experience with MS.
 13 Q. That your sister has MS?
 14 A. Yes.
 15 Q. And what was discussed in that regard?
 16 A. That she's had it for 30 years and within the
 17 past year has gone back to working full time.
 18 That's about it, I guess.
 19 Q. Now, did you have a conversation with Ms.
 20 Palzkill in which she stated that she wanted to
 21 be a — to remain a contractor rather than
 22 become an employee?
 23 A. Yes.
 24 Q. Was that just you and Ms. Palzkill present?
 25 A. Yes.

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- 1 Q. Take any notes during that conversation?
 2 A. No.
 3 Q. How did the topic come up?
 4 A. I'm exploring options for my department, and in
 5 the back of my mind I keep thinking, She was a
 6 contractor for 20 years at Ashley. Why is
 7 that? And I asked her that.
 8 Q. What did she say?
 9 A. I asked her if MS was the reason she was a
 10 contractor at Ashley, and she replied, Yes.
 11 Q. And during that conversation then did she say,
 12 I would prefer to be a contractor here at CURT
 13 rather than an employee?
 14 A. Yes.
 15 Q. What specific words did she use?
 16 A. I don't recall.
 17 Q. And do you recall approximately when that
 18 conversation occurred? It was before you
 19 talked to Ms. Myers; right?
 20 A. It was. I think that was the initial — I
 21 think that was still part of the initial
 22 discussion when she revealed to me she had MS.
 23 And I asked her, why are you telling me this
 24 now, and, No surprises, and then I started
 25 thinking, okay, 20 years at Ashley, is that why

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- 1 you were a contractor at Ashley.
 2 Q. So you believe —
 3 A. And then I asked her, Is this an insurance
 4 thing?
 5 MR. JOHNSON: Just answer the questions.
 6 BY MR. REINHARDT:
 7 Q. So the discussion regarding her being a
 8 contractor at Ashley and it relating to MS was
 9 during the conversation which she disclosed to
 10 you for the first time that she had MS; is that
 11 correct?
 12 A. At this time that's what I believe, yeah.
 13 Q. And you also believe that during that same
 14 conversation you asked, Is this an insurance
 15 thing; is that correct?
 16 A. I believe that to be true, yes.
 17 Q. And what did she say in response?
 18 A. She said, No, I have insurance.
 19 Q. What else do you recall being discussed during
 20 that conversation?
 21 A. Other than reminding her that I'm exploring
 22 options for the department and where we're
 23 going and that this is in the — in the need of
 24 us determining that there's a need for a
 25 full-time RPG programmer, that there wasn't a

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- 1 position being defined yet for that, that was
 2 it.
 3 Q. But as of this conversation we're talking
 4 about, you understood that she didn't want to
 5 be an employee, she wanted to be a contractor?
 6 A. She told me that was her preference.
 7 Q. Did you ever make an offer to Ms. Palzkill to
 8 become an employee of CURT Manufacturing?
 9 A. No.
 10 Q. Did you ever make an offer to Ms. Palzkill for
 11 her to remain as a contractor outside of CURT's
 12 contract with Orni Resources?
 13 A. No.
 14 Q. Why did CURT Manufacturing continue to use her
 15 as a contract programmer/analyst in 2012?
 16 A. We still had a business need for a dedicated
 17 RPG programmer at that time.
 18 Q. When did that business need end?
 19 A. The plan that we saw at the beginning of the
 20 year was that we wouldn't have that dedicated
 21 need around May.
 22 Q. And why didn't you have that dedicated need
 23 around May? What had changed?
 24 A. The big ball of Band-Aids that — the big ball
 25 of Band-Aids that we were working on, we had

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- 1 peeled off enough Band-Aids from the RPG
 2 perspective where we were starting to do more
 3 development in PowerLink and less in RPG.
 4 Q. Did you ever contact anybody at Omri in the
 5 fall of 2011 to ask about Ms. Palzkill's MS?
 6 A. No.
 7 Q. Other than Ms. Myers and Mr. Roemer, who we
 8 talked about, did you talk to anybody else at
 9 CURT Manufacturing about Ms. Palzkill's
 10 disclosure regarding MS?
 11 A. No. And I didn't talk to Bob Roemer either.
 12 Q. Why wasn't Ms. Palzkill offered a job as an
 13 employee of CURT Manufacturing?
 14 A. She didn't meet the needs of the business
 15 requirements.
 16 Q. Because?
 17 A. She only wanted to program in RPG, and I wanted
 18 someone — I needed someone that could program
 19 and wanted to program in both RPG, PowerLink,
 20 SQL, CL, do other things, wear other hats.
 21 Q. Did you know whether or not she could program
 22 in SQL?
 23 A. It was on her resumé.
 24 Q. What?
 25 A. It was on her resumé.

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- 1 department and resources that we were going to
 2 be needing.
 3 Q. How did you do that? Did you have a business
 4 plan in writing?
 5 A. No.
 6 Q. So how did you firm up the design?
 7 A. I met multiple times with Paul and Erin.
 8 Q. Did you put the firm up of the design in
 9 writing?
 10 A. No.
 11 Q. Have any emails regarding the firm up of the
 12 design?
 13 A. No.
 14 Q. This was all verbal?
 15 A. Yes.
 16 Q. So in order to get another programmer/analyst,
 17 what actions were taken by you or at your
 18 direction? Were there postings in the same
 19 places that there had been in 2011?
 20 A. Yes.
 21 Q. And did CURT Manufacturing end up hiring
 22 Angie — what's her name?
 23 A. Kundinger.
 24 Q. Thank you. Kundinger?
 25 A. Um-hum.

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- 1 Q. So are you saying that one of the reasons you
 2 didn't hire her is because she didn't want to
 3 program in SQL?
 4 A. No.
 5 Q. What about CL?
 6 A. What's the question?
 7 Q. Is one of the reasons that you did not hire her
 8 is because you believe she didn't want to
 9 program in CL?
 10 A. No.
 11 Q. Is the reason you didn't hire her because you
 12 believe she didn't want to program in
 13 PowerLink?
 14 A. Correct. PowerLink was our business need going
 15 forward.
 16 Q. When did CURT Manufacturing start looking for
 17 — strike that. In 2012 did CURT Manufacturing
 18 start looking for another programmer/analyst in
 19 your department?
 20 A. Yes.
 21 Q. When in 2012?
 22 A. It would have been March, April time frame.
 23 Q. Why in 2012 did you start looking for another
 24 programmer/analyst?
 25 A. That's when we firmed up the design of the

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- 1 Q. Yes?
 2 A. Yes.
 3 Q. Did you get a job application from Angie
 4 Kundinger?
 5 A. Yes.
 6 Q. Did you get a resumé from her?
 7 A. Yes.
 8 MR. REINHARDT: Off the record.
 9 (A discussion was held off the record.)
 10 BY MR. REINHARDT:
 11 Q. What was Angie Kundinger hired as? As a
 12 programmer or as a programmer/analyst?
 13 A. Programmer/analyst.
 14 Q. And did she have any skills in RPG programming?
 15 A. None.
 16 Q. Was she provided training in RPG?
 17 A. Yes.
 18 Q. Why?
 19 A. Because that was one of the skills she was
 20 going to need.
 21 Q. Why was she going to need that skill?
 22 A. Because our big ball of Band-Aids, our ERP
 23 system, RPG is one of the many skills that are
 24 needed.
 25 Q. Did Ms. Kundinger know PowerLink?

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- 1 A. Nope.
 2 Q. Was she provided with training in PowerLink?
 3 A. Yes.
 4 Q. Who trained her on RPG?
 5 A. A set of discs called ATS.
 6 Q. To your knowledge, did Ms. Palzkill provide any
 7 training to Ms. Kundinger in RPG?
 8 A. Not to my knowledge.
 9 Q. To your knowledge, did she perform any
 10 knowledge transfer as to RPG?
 11 A. Not to my knowledge. She was only there three
 12 days.
 13 Q. Who was only there three days?
 14 A. Pam and Angie.
 15 Q. There was an overlap of three days?
 16 A. Yeah.
 17 Q. When was Mr. — is it Mr. —
 18 A. It's a handful of days. Sorry. I don't know
 19 the number of days. It was only a few days.
 20 Q. When was Mr. Zimfel hired? Do I have that name
 21 right?
 22 A. Zim-fel.
 23 Q. Zim-fel?
 24 A. P-E-L. Z-I-M-P-E-L.
 25 Q. When was he hired?

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- 1 A. I believe August 2011.
 2 Q. Was he hired as a programmer/analyst?
 3 A. Yes.
 4 Q. And he was hired as an employee rather than
 5 somebody you got through Orni Resources; true?
 6 A. Yes.
 7 Q. And did he have PowerLink background?
 8 A. Nope.
 9 Q. He was provided training on PowerLink?
 10 A. Yes.
 11 Q. Did he have RPG background?
 12 A. Nope.
 13 Q. Was he provided training in RPG?
 14 A. Yes.
 15 Q. And what training was provided to him?
 16 A. The same CDs.
 17 Q. Were there CDs or discs available for training
 18 on PowerLink?
 19 A. No.
 20 Q. Did the decision with respect to hiring Ms.
 21 Kundinger, was that your decision or somebody
 22 else's decision?
 23 A. The ultimate decision to hire is always a
 24 combination of HR and myself.
 25 Q. You have to get approval to hire; correct?

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- 1 A. Yes.
 2 Q. But somebody makes the decision about whether
 3 or not this is the person we want; correct?
 4 A. Yes.
 5 Q. Was that you?
 6 A. That was a combination of Paul, Erin, and
 7 myself.
 8 Q. And that was —
 9 A. Ultimately, though, it was me.
 10 Q. That was true with respect to both Ms.
 11 Kundinger and Mr. Zimfel?
 12 A. No. Erin wasn't there when we hired Tom.
 13 Q. Got it. Did CURT Manufacturing's budget have
 14 anything to do with your decision that Ms.
 15 Palzkill was not a good fit to be hired by
 16 CURT?
 17 A. No.
 18 Q. Was Ms. Palzkill — did you have conversations
 19 with Ms. Palzkill about what rate of pay she
 20 would charge as a contractor?
 21 A. Yes.
 22 Q. How many times did you have that discussion?
 23 A. I recall two.
 24 Q. And what did she tell you?
 25 A. The first one she gave me a rate, and I believe

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- 1 it was the rate she used to charge Ashley. And
 2 the second one she gave me a new rate, and the
 3 new rate was higher.
 4 Q. And how did that come up the first time?
 5 A. When we were talking about her being a
 6 contractor and I'm exploring options for my
 7 department.
 8 Q. In other words, when she allegedly told you,
 9 I'd rather be a contractor than an employee?
 10 A. Yes.
 11 Q. And you're saying the second time she quoted
 12 you a higher rate?
 13 A. Yes.
 14 Q. Did you ask her why?
 15 A. Yes.
 16 Q. What did she say?
 17 A. She said Orni was paying her benefits.
 18 Q. That's what she told you?
 19 A. Yes.
 20 (Exhibit No. 6 was marked for
 21 identification.)
 22 BY MR. REINHARDT:
 23 Q. Showing you what's been marked for
 24 identification as Deposition Exhibit No. 6.
 25 I'd ask that you look at the middle entry on

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- 1 the first page. First of all, what was your
 2 email at CURT Manufacturing in 2011?
 3 A. Thau@curtmfg.com.
 4 Q. Who was Tom Brey?
 5 A. He's the account rep at Orni that I worked
 6 with.
 7 Q. Was he your primary contact at Orni?
 8 A. Yes.
 9 Q. Is the middle entry dated Friday, October 28th,
 10 2011, at 8:07 a.m., something you sent to
 11 Mr. Brey?
 12 A. Yes.
 13 Q. In here you wrote, I am just confirming the
 14 date that Pam will be available for us. Why on
 15 October 28th did you want to know what day Pam
 16 would be available for you?
 17 A. I'm exploring options in my department.
 18 Q. So at least as of October 28th of 2011 you were
 19 still open to the option of hiring Ms. Palzkill
 20 as an employee?
 21 A. I was exploring options, and if there was going
 22 to be a need for a dedicated RPG programmer,
 23 that was one of the options.
 24 (Exhibit No. 7 was marked for
 25 identification.)

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- 1 BY MR. REINHARDT:
 2 Q. Showing you what's been marked for
 3 identification as Hau Deposition Exhibit No. 7.
 4 Is this an email — the top entry. I'm sorry.
 5 Is the top entry from Mr. Brey to you on
 6 October 28th, 2011?
 7 A. Yes.
 8 Q. And who was Andrew?
 9 A. He was a contractor that we had hired through
 10 Orni.
 11 Q. A contractor for what position?
 12 A. For IT supervisor I believe it was.
 13 (Exhibit No. 8 was marked for
 14 identification.)
 15 BY MR. REINHARDT:
 16 Q. Showing you what's been marked for
 17 identification as Hau Deposition Exhibit No. 8.
 18 The second entry on this page dated — from you
 19 to Mr. Brey dated November 1st, 2011, states,
 20 we are under a new budget review process that
 21 has all changes to our current environment on
 22 hold. At this time, I'm hoping to continue to
 23 contract Pam via Orni Resources.
 24 Why did you talk about Pam and Orni
 25 Resources — well, why did you talk about

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- 1 contracting Pam or continuing to contract her
 2 in the same context or in the same paragraph as
 3 talking about the budget review process? How
 4 were those two things related in your mind, if
 5 at all?
 6 A. I believe that the six months were coming due,
 7 and Tom was going to be looking for some
 8 feedback from me on whether or not we were
 9 going to hire her or not. So I gave him the
 10 reason why. At that time that was — that
 11 was — that was one of them.
 12 Q. So as of November 1st of 2011 one of the
 13 reasons that you weren't going to hire Pam was
 14 because of the budget?
 15 A. I wasn't going to hire Pam at that time for a
 16 number of reasons. One was she only wanted to
 17 be an RPG programmer. I hadn't determined if I
 18 had a full-time need for an RPG programmer or
 19 not. I didn't put all that into a paragraph to
 20 Tom. I just said, we're under a contract —
 21 we're under a budget review, and that was my
 22 reasoning.
 23 Q. I'm not following you. What did your budget
 24 review have anything to do with Pam? That's
 25 what I'm asking.

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- 1 A. None.
 2 Q. So why did you put that in there?
 3 A. It felt good.
 4 Q. What do you mean by that?
 5 A. I wanted to give Tom a reason why I wanted to
 6 extend Pam.
 7 Q. You had the option as of November of not paying
 8 the contract rate to Orni and just contracting
 9 directly with Pam; right? Six months was up;
 10 right?
 11 A. I don't know. Was it? Is that the date?
 12 Q. It was May of 2011 to November of 2011.
 13 A. Okay.
 14 Q. Regardless of the dates, why wouldn't you — if
 15 you understood that she just wanted to be a
 16 contractor, why wouldn't you just contract
 17 directly with her and save the money that you
 18 had been paying to Orni?
 19 A. I don't know. It's a good question. Thought
 20 hadn't crossed my mind.
 21 Q. Didn't cross your mind at all?
 22 A. No.
 23 (Exhibit No. 9 was marked for
 24 identification.)
 25 BY MR. REINHARDT:

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1 Q. Showing you what's been marked for
 2 identification as Deposition Exhibit No. 9. Is
 3 this an email Mr. Brey sent to you on
 4 November 21st of 2011?

5 A. Yes.

6 Q. Does this reflect that you wanted them to
 7 backdate the books, that is orni, to show
 8 Andrew had started on a different date?

9 A. No.

10 Q. What were you asking him to do in terms of the
 11 September 1st question?

12 A. I don't know what the September 1st question
 13 was.

14 Q. You don't recall at this time; is that right?

15 A. I don't know what the September 1st question
 16 was.

17 (Exhibit No. 10 was marked for
 18 identification.)

19 BY MR. REINHARDT:

20 Q. Showing you what's been marked for
 21 identification as Deposition Exhibit No. 10.
 22 Can you tell me what this document is?

23 A. This was the notes I was asking for earlier.

24 Q. Is this a document that you prepared?

25 A. It is.

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1 Q. When did you prepare it?

2 A. The day that I was informed we were being sued.

3 Q. What, if anything, did you use to prepare it
 4 other than your memory?

5 A. The emails that contained status reports.

6 Q. Anything else?

7 A. That's what comes to mind.

8 Q. And why I'm asking this is I'm trying to
 9 determine if there were any notes or other
 10 documents other than perhaps emails or weekly
 11 status reports that you used to prepare your
 12 descriptive -- your descriptions regarding
 13 months of in this document.

14 MR. JOHNSON: Objection. Asked and
 15 answered.

16 MR. REINHARDT: Go ahead. He's made an
 17 objection for the record, but you need to
 18 answer the question.

19 MR. JOHNSON: You can go ahead and answer.

20 A. Nothing else.

21 BY MR. REINHARDT:

22 Q. Why do you say in here on a number of different
 23 entries, Pam has a warm smile?

24 A. Because I liked Pam. She does have a warm
 25 smile.

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1 Q. How is that relevant to your response here?
 2 Let me ask it another way. What was the
 3 purpose in preparing this document?
 4 A. We were being sued.
 5 Q. So what was the purpose in preparing the
 6 document?
 7 A. To get my thoughts, as much as I could recall
 8 them, on paper.
 9 Q. You wanted to put down things that you thought
 10 were relevant to the defense of the suit; is
 11 that correct?
 12 A. I wanted to put down thoughts that were
 13 relevant to my experience in working with Pam.
 14 I don't know what's relevant or not.
 15 Q. So how did you decide what you were going to
 16 put in here and what you weren't going to put
 17 in here as to your monthly recitations of
 18 events?

19 MR. JOHNSON: Asked and answered. Go
 20 ahead.

21 A. I wanted to put down my thoughts that were my
 22 experience in working with Pam.

23 BY MR. REINHARDT:

24 Q. Did you consult with anybody when you were
 25 preparing this document in terms of getting

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1 Q. Other individuals' recollections of events?

2 A. No.

3 Q. Did you prepare this document all in one day?

4 A. I believe I did, yeah.

5 Q. How long did it take you to prepare this
 6 document?

7 A. I don't know. An hour, two.

8 Q. Did anybody ask you to prepare this document?

9 A. No.

10 Q. What did you do with this document when it was
 11 prepared?

12 A. I gave it to Mark.

13 Q. Did you give it to Ms. Myers?

14 A. Yeah.

15 Q. On the last page under -- there's a section
 16 titled General Notes. Do you see that?

17 A. Yes.

18 Q. You write under the second point, Pam has never
 19 filled out an application for employment, nor
 20 has she been requested to. Why did you put
 21 that under General Notes?

22 A. It was one of the thoughts I had. I was being
 23 sued for not hiring her.

24 Q. But from your perspective, she had told you she
 25 didn't want to be hired; true?

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- 1 A. True.
 2 Q. She told you she wanted to be a contractor?
 3 A. Yeah.
 4 Q. So this must have shocked you?
 5 A. Absolutely. Absolutely.
 6 Q. So did you think to yourself, why the heck is
 7 she doing this?
 8 A. I thought to myself, How could I be so wrong.
 9 Q. What do you mean by that?
 10 A. I liked Pam. Last thing I expected from her.
 11 There was never any discussion with her, that
 12 she had with me regarding this, never.
 13 Q. Regarding what?
 14 A. My not hiring her because she has MS, the
 15 reason for the lawsuit.
 16 Q. The second point says, I was required to
 17 discuss her interest in CURT to let Orni
 18 Resources (her employer) know about them. How
 19 were you required or by what were you required
 20 to discuss her interest in CURT?
 21 A. I'm sorry. Where are you?
 22 Q. The third item under General Notes, second
 23 sentence. You write, I was required to discuss
 24 her interest in CURT. Why do you say you were
 25 required to do that?

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- 1 A. That's part of the contract. I can't — I
 2 can't go to a contractor and talk to them about
 3 hiring them without going to the firm that they
 4 work for first.
 5 Q. Within the first six months?
 6 A. Within the first six months.
 7 Q. Is it your understanding that even after the
 8 first six months of Ms. Palzkill being at CURT
 9 Manufacturing as a contractor for hire, you
 10 still have to go to Orni Resources to talk to
 11 them about hiring her?
 12 A. With the contract that I had?
 13 Q. Yeah.
 14 A. Yes.
 15 Q. If you look at Month of March 2012, there is
 16 the second entry from the bottom. I'm sorry.
 17 April of 2012, second entry from the bottom.
 18 You there?
 19 A. Yep.
 20 Q. Discussed Pam's current productivity with the
 21 two project managers, and all three of us
 22 concluded that she was not performing at the
 23 level she used to. Was it your feeling that
 24 she initially performed at a high level of
 25 productivity, but that declined?

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- 1 A. No.
 2 Q. What do you mean when you stated, she was not
 3 performing at the level she used to?
 4 A. Attitude.
 5 Q. What do you mean by that?
 6 A. Her attitude changed.
 7 Q. When did it change?
 8 A. I don't know.
 9 Q. How did it change?
 10 A. It became more harsh and disruptive.
 11 Q. We haven't talked about that. How was her
 12 attitude harsh and disruptive?
 13 A. Difficult to talk to, difficult to work with.
 14 Not with me, with other resources.
 15 Q. Who told you that she was difficult to work
 16 with?
 17 A. Erin and Paul.
 18 Q. What did they tell you?
 19 A. They told me that — I don't recall the exact
 20 words.
 21 Q. Who told you that she was difficult to work
 22 with?
 23 A. Erin and Paul.
 24 Q. What did they tell you?
 25 A. I don't recall other than she was difficult to

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- 1 work with. I don't recall the words.
 2 Q. Why did you keep her on as a contract employee
 3 through Orni Resources paying a really high
 4 rate of pay if she became harsh and disruptive?
 5 A. I had a business need for an RPG programmer at
 6 that time.
 7 Q. Well, you had a business need for a dedicated
 8 RPG programmer at that time?
 9 A. I did. That's all she was doing.
 10 Q. So despite the fact that these folks allegedly
 11 reported to you that she was harsh and
 12 disruptive, you felt the business needs
 13 dictated keeping her on?
 14 A. Yes.
 15 Q. Did you ever talk to Pam Palzkill and say, Hey,
 16 you're being harsh and disruptive?
 17 A. No.
 18 Q. Why not?
 19 A. I asked Erin and Paul to.
 20 Q. What did you ask them to do?
 21 A. Talk to Pam about being harsh and disruptive.
 22 Q. Did they, to your knowledge?
 23 A. Don't know.
 24 Q. Did they ever follow up with you?
 25 A. I don't know.

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- 1 Q. Did you ever follow up with them?
 2 A. No.
 3 Q. Any other ways her attitude changed?
 4 A. During our meetings sitting at a table, she
 5 wasn't sitting at the table.
 6 Q. You're talking about —
 7 A. The department meetings, yes.
 8 Q. Did you call them staff meetings or department
 9 meetings?
 10 A. Just now I called it a department meeting.
 11 Q. Yeah. And I'm just trying to get whatever
 12 terminology you used back in 2011 or 2012.
 13 A. I would usually call it department meetings.
 14 Q. All right. Then we'll use department. In the
 15 department meetings you said they were in the
 16 Wisconsin Room; right?
 17 A. Yes.
 18 Q. There's a conference table in there?
 19 A. Yes.
 20 Q. Where did she sit?
 21 A. Behind everybody else.
 22 Q. Well, was there room at the table?
 23 A. Yes.
 24 Q. Did you ever ask her, Hey, why are you sitting
 25 behind everyone else?

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- 1 (Exhibit No. 11 was marked for
 2 identification.)
 3 BY MR. REINHARDT:
 4 Q. Showing you what's been marked for
 5 identification as Hau Deposition Exhibit No.
 6 11. I'd ask that you take a look at the first
 7 three pages, which are marked at the bottom or
 8 Bates stamped 7 through 11. I'm sorry. 7
 9 through 10. Have you seen those first three
 10 pages before?
 11 MR. JOHNSON: Just for the record, I don't
 12 see the Bates stamps at the bottom.
 13 MR. REINHARDT: Did I give you the wrong
 14 document? You know, maybe I did. Yeah, I gave
 15 you the wrong document. You're correct.
 16 MR. JOHNSON: Okay.
 17 BY MR. REINHARDT:
 18 Q. Exhibit 11 is a letter dated August 7th, 2012,
 19 from Mark Johnson of Kukowski & Costello to
 20 Marian Drew at the EEOC. Have you seen this
 21 document before?
 22 A. I don't recall.
 23 Q. Is this a document that you reviewed prior to
 24 your deposition today?
 25 A. No.

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- 1 A. No.
 2 Q. Did it bother you?
 3 A. No.
 4 Q. When did she start sitting behind everyone
 5 else?
 6 A. I don't know when she started. I think I
 7 noticed during the winter of that — that
 8 2000 — what year are we in here now? 2011, I
 9 guess.
 10 Q. When you say winter, you mean November,
 11 December?
 12 A. No. January, February type of a time frame.
 13 Q. So it would have been January or February of
 14 2012?
 15 A. Okay.
 16 Q. Right?
 17 A. Okay. Yeah.
 18 Q. Did anyone bring up — bring that topic up to
 19 you? Did anybody in management or any staff
 20 say, Hey, this is kind of strange, Pam is
 21 sitting behind everyone at the table?
 22 A. No.
 23 Q. Any other ways you believe or contend her
 24 attitude changed?
 25 A. No.

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- 1 (Exhibit No. 12 was marked for
 2 identification.)
 3 BY MR. REINHARDT:
 4 Q. Showing you what's been marked for
 5 identification as Deposition Exhibit No. 12,
 6 and you can look. I don't have an extra one.
 7 We're done with that document unless — have
 8 you seen Exhibit 12 before, the first three
 9 pages, which were marked 7 through 10?
 10 A. I don't recall.
 11 (Exhibit No. 13 was marked for
 12 identification.)
 13 BY MR. REINHARDT:
 14 Q. Showing you what's been marked for
 15 identification as Deposition Exhibit No. 13.
 16 Please look at page 14 of this document. Does
 17 your signature appear on page 14 of this
 18 document?
 19 A. Yes, it does.
 20 Q. And did you review these answers to
 21 interrogatories before signing them?
 22 A. Yes.
 23 Q. Is the content of the interrogatory answers
 24 true and correct to the best of your knowledge?
 25 A. Yes.

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- 1 (Exhibit No. 14 was marked for
 2 identification.)
- 3 BY MR. REINHARDT:
- 4 Q. Showing you what's been marked for
 5 identification as Deposition Exhibit No. 14.
 6 Can you tell me what this document is?
 7 A. This looks like my budget spreadsheet.
 8 Q. This would be the operating budget you prepared
 9 for your department for 2012; true?
 10 A. It appears to be that, yes.
 11 Q. And there's a Training section on this
 12 spreadsheet; is that correct?
 13 A. Yes.
 14 Q. And under Training there's specific line items
 15 for the type of training that is going to be
 16 provided to specific individuals; is that
 17 correct?
 18 A. Yes.
 19 Q. Is that what you also did in 2011 or not?
 20 A. I don't recall.
 21 Q. What is — what is Robot?
 22 A. Robot is a tool that we used to use to help
 23 schedule programs to run at specific times on
 24 our AS/400.
 25 Q. And did you ever talk to Ms. Palzkill about

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- 1 doing work in Robot?
 2 A. I did multiple times.
 3 Q. And what did you say to her?
 4 A. That she needs to be able to wear multiple hats
 5 and have multiple skills at the company because
 6 we have limited resources, and I wanted her to
 7 go to training for Robot.
 8 Q. So you also offered her to go to training in
 9 Robot in addition to PowerLink; is that
 10 correct?
 11 A. Yes.
 12 Q. And when did you — were those conversations
 13 all in 2011, or did you continue to have them
 14 in 2012?
 15 A. Those conversations about additional training?
 16 Q. About Robot.
 17 A. Robot was in 2011.
 18 Q. And what did she say when you asked her to go
 19 to training in Robot?
 20 A. She didn't want to go.
 21 Q. Do you know if she had skills in Robot?
 22 A. I know she knew how to use Robot.
 23 Q. How did you know that?
 24 A. Because we had Robot, and she was able to
 25 schedule a job in Robot. That was not the

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- 1 skills that were needed, though.
 2 Q. What was needed?
 3 A. More advanced skills in exploring how to use
 4 the tool beyond how we were currently using it.
 5 Q. But she declined to do that?
 6 A. She did.
 7 MR. REINHARDT: Let's take a five-minute
 8 break, and then we'll finish up.
 9 (A break was taken.)
- 10 BY MR. REINHARDT:
- 11 Q. Who is Kris Roberts?
 12 A. Kris Roberts is — I think her title is VI
 13 analyst and works for me in the IT department.
 14 Q. Did Kris Roberts work with Ms. Palzkill at all?
 15 A. I believe they had a lot of conversations
 16 together, yes.
 17 Q. And was her role with respect to Ms. Palzkill's
 18 work different than the role of the project
 19 managers?
 20 A. She didn't have a role with respect to Pam.
 21 Q. Fair enough. Did Kris Roberts give you any
 22 feedback about Ms. Palzkill's performance?
 23 A. No.
 24 Q. Didn't say anything to you one way or another?
 25 A. No.

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- 1 Q. Did Ms. Palzkill's actual physical location of
 2 her office at CURT Manufacturing change at some
 3 point?
 4 A. Yes.
 5 Q. When?
 6 A. I think it might have changed a couple of times
 7 as we reorganized first on the first floor,
 8 then eventually we moved upstairs to the second
 9 floor.
 10 Q. Did you ever notice her having any difficulty
 11 walking upstairs?
 12 A. No.
 13 Q. Where was your office in 2011?
 14 A. Right outside of where Pam was.
 15 Q. What about when you became the CIO? Did that
 16 change?
 17 A. It did.
 18 Q. Where did your office end up at that point?
 19 A. Upstairs. So everybody in IT moved upstairs.
 20 I moved upstairs also.
 21 Q. Were you around in the actual department on a
 22 day-to-day basis as much after you became the
 23 CIO?
 24 A. Due to the location of my office, no.
 25 Q. Then I'm missing you. When you were CIO, I

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1 thought everyone was on the second floor and
 2 you were there also.
 3 A. I was. Different location on the second floor.
 4 Q. But weren't you away from the department more
 5 when you were the CIO? Aside from the physical
 6 location, didn't your duties take you away from
 7 day to day being in the department as much?
 8 A. I don't believe so, no.

9 MR. REINHARDT: Those are all the
 10 questions I have.

11 MR. JOHNSON: I just have a couple.

12 BY MR. JOHNSON:

13 Q. Mr. Hau, you testified earlier about a
 14 discussion you had with Ms. Myers in which you
 15 mentioned that Ms. Palzkill told you she had
 16 MS. Do you remember that?

17 A. Yes.

18 Q. Was that discussion — what was the purpose of
 19 that discussion in which this came up?

20 A. The purpose was to meet with my boss and Kim
 21 and talk about the design of the department and
 22 where I was planning on taking it.

23 Q. So were other employees besides Ms. Palzkill
 24 discussed during this meeting?

25 A. Yes.

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1 STATE OF WISCONSIN }
 2 COUNTY OF DUNN }ss

3

4 I, Stephanie Peil, Notary Public in and for the
 5 State of Wisconsin, certify there came before me the
 6 deponent herein, namely Timothy Hau, who
 7 was by me duly sworn to testify to the truth and
 8 nothing but the truth concerning the matters in this
 9 cause.

10 I further certify that the foregoing transcript
 11 is a true and correct transcript of my original
 12 stenographic notes.

13 I further certify that I am neither attorney or
 14 counsel for, nor related to or employed by any of
 15 the parties to the action in which this deposition
 16 is taken; furthermore, that I am not a relative or
 17 employee of any attorney or counsel employed by the
 18 parties hereto or financially interested in the
 19 action.

20 IN WITNESS WHEREOF, I have unto set my hand and
 21 affixed my Notarial Seal this 26th day of November,

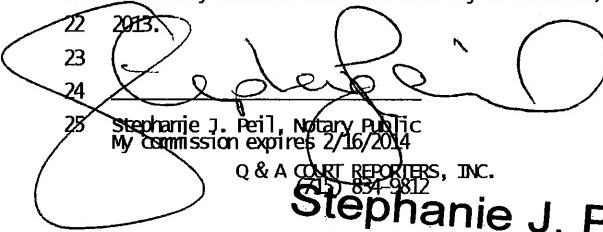
22 2013.

23

24

25 Stephanie J. Peil, Notary Public
 My commission expires 2/16/2014

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 Stephanie J. Peil
 Notary Public
 State of Wisconsin

1 Q. And when you said your boss, who was that?

2 A. Greg Hooks.

3 Q. So he was present during this meeting?

4 A. Yes.

5 MR. JOHNSON: I have nothing further.

6 MR. REINHARDT: Okay.

7 (Proceedings concluded at approximately
 8 11:45 a.m.)

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